FOURTH ANNUAL REPORT

OF THE

NATIONAL LABOR RELATIONS BOARD

For the Fiscal Year Ended

June 30, 1939

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NATIONAL LABOR RELATIONS BOARD

J. WARREN MADDEN, *Chairman*

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BEATRICE M. STERN, *Assistant Secretary*

CHARLES FAHY, *General Counsel*
ROBERT B. WATTS, *Associate General Counsel*
THOMAS I. EMERSON, *Assistant General Counsel*

GEORGE O. PRATT, *Chief Trial Examiner*

DAVID J. SAPOSS, *Chief Economist*

MALCOLM ROSS, *Director of Information*

HERBERT R. GLASER, *Chief Clerk*

*Took office June 1, 1939, to succeed Donald Wakefield Smith.

LETTER OF TRANSMITTAL

NATIONAL LABOR RELATIONS BOARD,
Washington, D. C., January 3, 1940.

SIR:

I have the honor to submit to you the Fourth Annual Report of the National Labor Relations Board, for the fiscal year ended June 30, 1939, in compliance with the provisions of section 3 (c) of the National Labor Relations Act, approved July 5, 1935.

J. WARREN MADDEN, *Chairman.*

The PRESIDENT OF THE UNITED STATES,
The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

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FOURTH ANNUAL REPORT OF THE NATIONAL LABOR RELATIONS BOARD

I. INTRODUCTION

A. WORK OF THE BOARD

The Board is pleased to report that the statistics of its work for the fiscal year ended June 30, 1939, show, as they did in the Third Annual Report, a very high percentage of cases disposed of and closed during the year; although, compared with the preceding fiscal year, there has been a decrease in the percentage of such cases and the total number of cases pending at this date is somewhat higher than at the end of the preceding fiscal year. Detailed statistical analysis of the work of the Board during the fiscal year will be found in Chapters IV, V, and VI.

The Board's statistics show that during the fiscal year, the Board was able to dispose of almost 84 percent of the cases closed without formal hearing. Of the cases closed, nearly half were closed by adjustment. Thus, slightly less than half of the charges of unfair labor practices disposed of during the year were closed by substantial compliance with the act and voluntarily accepted by all parties; and over 40 percent of the representation cases disposed of were closed by informal determination of the question concerning representation, with a large number of elections held by consent of all the parties, making hearings unnecessary and resulting in collective bargaining. The Board is also gratified to report, as it did in its Third Annual Report, that in the numerous elections participated in by thousands of workers, the secrecy of its ballots was not questioned, and its election machinery was frequently praised by employers and unions alike for its competence and efficiency.

Although the number of formal hearings held by the Board during the fiscal year has decreased, the decisions issued by the Board have increased markedly, with the number of decisions in unfair labor practice cases issued during the fiscal year slightly more than double that number for the preceding fiscal year. The statistics for the fiscal year also show an increase in decisions by the Board dismissing unfair labor practice cases, and a great increase in compliance with Board decisions and orders in unfair labor practice cases.

B. RELATION OF BOARD ACTIVITIES TO INDUSTRIAL PEACE

The Third Annual Report emphasized the increased number of cases appearing before the Board after the Supreme Court decisions validating the act, and it also indicated that increasing resort was had to Board facilities, instead of the strike, where controversies arose over the issue of labor organization. This development con-

tinued at an accelerated pace during the past year as Board machinery came to be used on a greater scale than before.[1]

From 1937 to 1938, the total number of strikes in American industry decreased by 49 percent, involving a decline of 64 percent in number of workers. At the same time the number of organization strikes decreased by 56 percent, a drop of 81 percent in terms of workers involved in strike activity. In contrast, the number of Board cases during this period decreased by only 15 percent, a drop of 48 percent in terms of the number of workers involved. Thus, the decline in strike activity was far greater than that in Board activity.

Further comparison of Board cases and strike activity reinforces this evidence of a tendency for workers to resort to Board procedures rather than the strike. During 1936 the number of strikes had exceeded the number of Board cases by 33 percent. In 1937, the figures were reversed, and Board cases exceeded strikes by 121 percent; the trend continued in 1938 when the number of Board cases became 267 percent greater than the number of strikes. Broken down by months, the figures are equally convincing. For every month during 1937 (after May), Board cases exceeded strikes by percentages varying from 100 percent to 385 percent; during 1938 the percentages ranged from 168 to 355; and during the first six months of 1939, from 175 to 208.

Similar findings result from a comparison in terms of number of workers. In 1936 the number involved in strike activity exceeded that involved in Board cases by 32 percent. The figures were reversed in 1937, when the number of workers in Board cases exceeded that involved in strikes by 29 percent. This relationship has continued for every month since May 1937, with the exception of September 1938 when the number of workers involved in strikes was 9 percent greater than that involved in Board cases. During the period, June 1937 to July 1939, the monthly figures measuring the percentages by which the number of workers in Board cases exceeded the number involved in strikes ranged from 7 percent to 615 percent. The percentages ranged from 33 percent to 615 percent during the given period in 1937, from 7 percent to 274 percent during 1938 (with exception noted above), and from 15 percent to 209 percent for the 6-month period ending June 30, 1939.[2]

The effect of Board activity is seen even more clearly in a comparison restricted to organization strikes (which center around the

[1] For tables and charts of data used in the discussion immediately following, see appendix A, tables I and II, charts A, B, C, D.

[2] Data on the bituminous coal stoppage of April–May 1939 have not been included in the tables appended herein nor in the statistics comprising this section because of the peculiar nature of that stoppage, "termed variously a strike, a lock-out, a stoppage, or a suspension." (U. S. Bureau of Labor Statistics, *Monthly Labor Review*, August 1939, p. 390.) The Bureau of Labor Statistics refers to it as the "bituminous coal stoppage." (Cf. *Ibid.*, September 1939.) Elsewhere it has been pointed out that the dispute concerned "no principle involved in the Wagner Labor Relations Act." (*New York Times* editorial, May 6, 1939.)

If data on this stoppage are included for the purposes of analysis here, the comparisons would be modified as follows: For April the number of Board cases would exceed the total number of strikes by 195 percent and the number of organization strikes by 553 percent; the number of workers involved in Board cases would be 71 percent less than the number of workers involved in all strikes, and 67 percent less than the number of workers involved in organization strikes. For May the number of Board cases would exceed the total number of strikes by 184 percent and the number of organization strikes by 460 percent; the number of workers involved in Board cases would be 2 percent less than the number of workers involved in all strikes, and 58 percent greater than the number of workers involved in organization strikes. However, the general trends noted in the above discussion are not materially affected by the inclusion of the data in question.

issues that are directly involved in Board cases). For 1936 Board cases exceeded organization strikes by 34 percent; in 1937 the difference increased to 291 percent, and by 1938 it reached 652 percent. Similar figures are disclosed by a comparison in terms of number of workers. The number involved in Board proceedings in 1936 exceeded that involved in strikes by 25 percent; in 1937 the percentage increased to 122 percent; and in 1938, 520 percent.

Further break-down of the data reveals that for every month beginning with April 1937 and ending with June 1939, the number of Board cases exceeded the number of organization strikes by percentages varying from 77 percent to 925 percent. During the period April–December 1937, monthly percentages ranged from 77 to 766; during 1938, from 393 to 925; and during January–June 1939, from 416 percent to 601 percent.

A similar comparison of monthly data in terms of number of workers reveals further the extent to which workers have turned to the Board instead of resorting to strikes. Since validation of the act in April 1937, the percentage by which the number of workers in Board cases has exceeded the number of workers in organization strikes has fluctuated from 37 percent to 1,756 percent. Variations during specific periods are as follows: a minimum of 37 percent and a maximum of 1,011 percent during April–December 1937, a range from 188 percent to 1,756 percent during the 12 months of 1938, and percentages ranging from 108 to 841 for the first 6 months of 1939.

Analyzing and surveying the effect of its operations upon industrial relations,[3] the Board has classified strike data for 1937 and 1938, the first 2 full years of effective administration, into industries in which it has taken jurisdiction and industries in which it has taken partial or no jurisdiction.[4] During this period the total number of strikes in the first group declined by 48 percent, contrasted with 29 percent in the latter group. In terms of number of workers, the decreases were 66 percent (for industries in which the Board has taken jurisdiction) and 52 percent (for industries in which it has taken partial or no jurisdiction). Decreases in terms of man-days of idleness were 71 percent and 51 percent in the order given above. Thus, in every significant measure there has been a greater decline in strike activity for industries in which the Board has taken jurisdiction than for other industries.

The relation between strike activity and the state of the business cycle during the past year is further evidence of the beneficial effects of Board activity. Generally in the past, strike statistics have followed the patterns of the business cycle, diminishing with a decline in business activity and increasing during periods of recovery.[5] Thus, in 1936–37 an increase in the index of industrial production was accompanied by an increase in man-days of idleness, until the summer of 1937, when strike activity diminished with the recession which began during that period. In the latter part of 1938 the customary

[3] It is evident, of course, that many factors beyond the Labor Relations Act influence the course of industrial relations, particularly strike activity, e. g., the business cycle, differences over the substantive conditions of employment (not included within the direct purview of the Board), labor disunity, continued opposition of employers to collective bargaining and related factors.

[4] See Table III of appendix.

[5] The movement does not occur with year-to-year regularity since other factors influence the trend of strike statistics.

movement was absent, and man-days of idleness did not increase at a rate comparable with the increase in industrial production.

But the accomplishments of the Board are not confined to a reduction of strife. They include a more positive effect, seen in the increase of written trade agreements which has occurred during the past few years as collective bargaining procedures have been extended and more widely accepted throughout American industry. This development signifies that during the past year "* * * an increasing number of employers began to accept trade-unions and to adjust their management methods and policies accordingly." [6]

All industries and trades have shared in this extension of collective bargaining, but the development has been really spectacular in the mass-production industries, where before 1937 there were almost no agreements. Prior to 1937 there were few agreements in iron and steel; in that year more than 350 were reported. By 1938 the number had increased to 500; and three-fourths of the basic iron, steel, and tin-producing industry and varying proportions of allied metal fabricating and processing were covered by agreement. The number continues to grow. In contrast with the small number (roughly 100) of rubber workers covered by agreement in 1932, there are now more than 40,000; more than 80 percent of this coverage has been effected since the Supreme Court decisions validating the National Labor Relations Act. Other examples of recent agreements in mass production include flat glass (more than 21,000 workers), aluminum (6 plants employing 17,000 workers), automobile (more than 500 agreements in 1938), electrical equipment (more than 400 agreements covering companies like Philco, General Electric, Radio Corporation of America), and rayon yarn (American Viscose employing 20,000). These examples provide only meager illustration of a growth in written trade agreements that is unprecedented.[7]

C. COURT REVIEW OF THE BOARD'S ORDERS AND MISCELLANEOUS LITIGATION

During the fiscal year ended June 30, 1939, the Board's litigation was concerned principally with cases involving the enforcement or review of its orders in unfair labor practice cases under the procedure provided in section 10 of the act. The flood of injunction cases which impeded the Board's work during the preceding fiscal years has entirely subsided, only one such case occurring during the fiscal year. With the expansion of the Board's activities, enforcement and review litigation increased over preceding years, a total of 44 final decisions having been rendered in such cases during the fiscal year by the various circuit courts of appeals and the Supreme Court of the United States. In addition, the fiscal year was marked by a great increase in the settlement of cases through the entry of consent decrees in the circuit courts of appeals, 147 such decrees having been entered during the year as compared with 11 listed in the Third Annual Report.[8]

[6] U. S. Bureau of Labor Statistics, *op. cit.*, March 1939, p. III.

[7] A recent study of the National Industrial Conference Board contains interesting comment on this development. Cf. National Industrial Conference Board, *Management Record*. July 1939, vol. 1, No. 7, A Comparison of Union Agreements, p. 101.

[8] See ch. IX, post, for detailed discussion of Board's litigation record during fiscal year.

The Board was involved in 13 cases before the United States Supreme Court during the fiscal year. Six of these were cases in which application was made for a writ of certiorari to review a lower court decision favorable to the Board. In five of these six instances, the Supreme Court declined to review the decision. In another case, the Supreme Court declined to review a lower court decision unfavorable to the Board; and one case, in which certiorari was granted to review a decision modifying a Board order, remained on the Supreme Court docket at the close of the court term. In the six cases in which argument was held and an opinion rendered, the Board was fully sustained in two, one of which did not involve enforcement of a Board order,[9] its order was modified in two others, and set aside in the remaining two. In these cases a number of issues of great importance to the administration of the act were ruled upon. The Board's jurisdiction over unfair labor practices occurring in a large utility system upon which instrumentalities of commerce are dependent for power was sustained in *Consolidated Edison Co.* v. *N. L. R. B.*,[10] one of the most important decisions with regard to the commerce power of the Federal Government in recent years. This case also considered the proper procedure to be followed by the Board where the order issued by the Board requires the setting aside of collective agreements with bona fide labor organizations. In the case of *N. L. R. B.* v. *Fainblatt*,[11] the jurisdiction of the Board over unfair labor practices occurring in a small enterprise engaged in processing goods belonging to others, where the raw materials and products are shipped across State lines, was affirmed. In the *Consolidated Edison Case* and in *N. L. R. B.* v. *Columbia Enameling & Stamping Co.*,[12] the nature of the evidence adequate to support fact findings of the Board upon review in the courts was considered. In substance, the Supreme Court held that the supporting evidence should be such as "a reasonable mind might accept as adequate to support a conclusion," or which "affords a substantial basis of fact from which the fact in issue" might be "reasonably inferred." In *Fansteel Metallurgical Corp.* v. *N. L. R. B.*,[13] the Supreme Court ruled that the Board was not empowered to order the reinstatement of strikers who seized, and through unlawful resistance to a court injunction, retained possession of the employer's plant, even though the strike was caused and prolonged by flagrant unfair labor practices of the employer.

Out of 38 decisions rendered by the circuit courts of appeals in Board cases during the fiscal year, the Board's orders were enforced in full in 12 cases; in 17 cases its orders were enforced as modified.[14] In 9 of the cases the Board's orders were set aside, although in one a new hearing was ordered, in another the circuit court of appeals was subsequently reversed, and in a third its decision was modified by the Supreme Court.

The Board's orders for reinstatement with back pay of employees discriminatorily discharged have, for the most part, been enforced,

[9] This case, *Ford Motor Company* v. *N. L. R. B.*, 305 U. S. 364, is discussed below.
[10] 305 U. S. 197.
[11] 306 U. S. 601.
[12] 306 U. S. 292.
[13] 306 U. S. 240.
[14] In six of these cases, only the notice provisions of the order were modified.

and where set aside the decision has turned upon questions of evidence. Likewise, the Board's orders for the disestablishment of company-dominated labor organizations have been generally sustained. Board orders requiring the abrogation of contracts unlawfully entered into with such company-dominated labor organizations have been uniformly sustained. Although in a number of cases an order requiring an employer to bargain with the labor organization chosen as their bargaining representative by a majority of the employees has been sustained, some of the circuit courts have refused to enforce such orders upon the ground that the lapse of considerable time after the original designation of the labor organization involved as the bargaining agency has thrown serious doubt on its continued designation by a majority of the employees involved. The Board believes that such modifications are improper, since they render the act unworkable and because enforcement of the bargaining order does not prevent ascertaining any change in representation in a proceeding under section 9 of the act. The circuit courts have enforced, with minor modifications, Board orders remedying a variety of unfair labor practices under section 8 (1) of the act.

Thus, to summarize the Board's litigation record during the fiscal year, relating to the enforcement or review of Board orders, it appears that of the 43 decisions rendered by the Supreme Court and the several circuit courts of appeals, the Board's orders have been fully sustained in 13 cases and enforced as modified in 19 others.[15] In 11 cases the Board's orders were set aside. In addition, at the close of the fiscal year, 74 cases involving enforcement or review of Board orders were pending before the various circuit courts of appeals.

The litigation of the Board during the fiscal year also included a small amount of miscellaneous court action. In addition to the one case involving the attack upon the act through injunction proceedings, there were several cases involving attempts to review or stay representation proceedings under section 9 (c) of the act. Thus, in *American Federation of Labor* v. *N. L. R. B.*,[16] review was sought of the Board's decision certifying the bargaining representatives of West coast longshoremen on a basis of an appropriate bargaining unit composed of the employees of certain employers who were members of employee associations in the industry. In *International Brotherhood of Electrical Workers* v. *N. L. R. B.*,[17] the sixth circuit court of appeals undertook to review a direction of the Board for a run-off election. Review of both decisions is being sought in the Supreme Court.[18] In *Ford Motor Co.* v. *N. L. R. B.*, [19] the Supreme Court sustained the power of a circuit court of appeals to remand a case upon application of the Board after the record was filed in the Court, in order that the Board might set aside its order and take further proceedings in the case.[20]

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[15] See comment in footnote 14.
[16] 103 F. (2d) 933 (App. D. C.).
[17] 105 F. (2d) 598 (C. C. A. 6).
[18] Certiorari granted in both cases, October 9, 1939.
[19] 305 U. S. 364, aff'g 99 F. (2d) 1003 (C. C. A. 6).
[20] See ch. IX, post, for detailed discussion of litigation during fiscal year.

D. THE CONFLICT BETWEEN THE AMERICAN FEDERATION OF LABOR AND THE CONGRESS OF INDUSTRIAL ORGANIZATIONS AND ITS EFFECT ON THE WORK OF THE BOARD

The strife between the American Federation of Labor and the Congress of Industrial Organizations has continued during the fiscal year and has continued to present problems to the Board. The Board has continued, too, in the exercise of its manifest duty under the act, with full regard for its primary objective of encouraging and protecting the processes of genuine collective bargaining through freely chosen representatives and with scrupulous consideration for all of the circumstances of each particular case.

The statistics of the Board's work for this fiscal year show no startling divergences from those of the last fiscal year on the division of cases initiated by the two organizations. The difference between the total number of the cases of each of the two organizations handled by the Board during the year is not great, with almost half of the total filed by the Congress of Industrial Organizations and a little less than half of the total filed by the American Federation of Labor.[21] The proportion of the total cases of each organization handled during the fiscal year and the proportion of total cases of each organization closed shows no notable change, compared with the last fiscal year. However, of the total cases settled, the proportion of American Federation of Labor cases settled increased during the fiscal year. The American Federation of Labor participated in proportionately more elections during the fiscal year, and won proportionately more elections than during the preceding fiscal year. Further, in elections conducted between the two organizations, the American Federation of Labor, in contrast with the preceding year, won more elections than did the Congress of Industrial Organizations.

The number and percentage of cases filed by both organizations which went to hearing during the fiscal year decreased, but of the total number of hearings held, the proportion of hearings in Congress of Industrial Organizations cases increased. The number of Board decisions in American Federation of Labor cases during the fiscal year decreased slightly, but the percentage of such cases in which decisions were issued by the Board increased slightly; the number and percentage of Congress of Industrial Organizations cases in which decisions were issued by the Board increased. The benefits of settlement of cases and compliance with Board decisions and orders were about equally divided between the two organizations. Such settlements and compliance resulted in union recognition in practically the same number of cases for each organization; but written or oral contracts were made in more American Federation of Labor cases than in Congress of Industrial Organizations cases. More compliance notices were posted in American Federation of Labor cases, but more cases involving the issue of employer domination of labor organizations were settled in Congress of Industrial Organizations cases. Settlement of and compliance in cases of the latter organization, the statistics show, resulted in more employees reinstated and more back pay than in the cases of the American Federation of Labor.

[21] Where used in this section, the names "American Federation of Labor" and "Congress of Industrial Organizations" include these organizations and their affiliates, respectively.

The question of the appropriate unit continued to be an important problem during the fiscal year. In solving this problem the Board continued to employ, in the exercise of the power conferred on the Board in section 9 (b) of the act to decide in each case the unit appropriate for collective bargaining, the technique described in the Board's Third Annual Report, which has come to be known as the Globe Doctrine.[22] Under this doctrine, in cases where other factors are evenly balanced, the choices as to unit of the employees in the disputed group are made the determining factor, and they are permitted to exercise that choice in an election between the labor organization contending for an industrial unit and the labor organization contending for the craft unit. However, as pointed out below, the number of cases in which this problem arose during the fiscal year has, as it did during the past fiscal year, remained quite small and constitutes only a minor proportion of the representation cases decided by the Board.

During the fiscal year, the Board decided 116 cases in which both American Federation of Labor and Congress of Industrial Organizations participated and in which the question of appropriate unit was involved. In 49 of these cases the American Federation of Labor and the Congress of Industrial Organizations agreed completely upon the appropriate unit. In 20 cases both organizations agreed upon the general outlines of the unit and disagreed only concerning the inclusion or exclusion of minor groups or isolated individuals. The 43 remaining cases, in which there was important disagreement between the American Federation of Labor and the Congress of Industrial Organizations upon the appropriate unit, were decided as follows:

American Federation of Labor contention upheld	16
Congress of Industrial Organizations contention upheld	19
Contentions of each upheld in part	7
No decision necessary	1

In 29 of these 43 cases the main controversy centered around whether the appropriate unit should be a craft unit or an industrial one; in 14 this issue was not involved. Out of the 19 cases in which the contention of the Congress of Industrial Organizations was fully upheld, 11 involved this issue.[23]

It is interesting to note that during the fiscal year the American Federation of Labor requested some form of industrial unit in approximately 113 cases, and a craft form in approximately 68 cases.[24] In 54 of these 68 cases, the Board granted the claim of the American Federation of Labor in full, either by setting up the craft employees directly as a separate unit or by permitting the craft employees to make their own choice. In only 15 instances did the Board reject a claim for craft units.[25]

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[22] Third Annual Report (1938), pages 6 and 7, citing *Globe Machine and Stamping Company*, 3 N. L. R. B. 294.

[23] See ch. VII, post, for discussion and citation of the Board decisions.

[24] These figures are not altogether exact since it is sometimes very difficult to know whether a particular group requested as an appropriate unit should properly be considered a "craft" or an "industrial" group.

[25] In four of these cases, the claims of the American Federation of Labor unions were granted as to some craft groups and denied as to others. See ch. VII, post, for a detailed discussion and citation of the Board decisions.

The Board has continued during the fiscal year to decide these and other issues created by the split between the American Federation of Labor and the Congress of Industrial Organizations, as required by the statute. Again, as during the past fiscal year, the conflict has created problems which have taken a disproportionate part of the Board's time and energies. The Board has no alternative but to decide these issues when presented. The protection to the processes of collective bargaining afforded by the National Labor Relations Act are still vitally beneficial to organized labor. A united labor movement would be in a better position to enjoy the rights protected by the act.

E. HEARINGS ON PROPOSED AMENDMENTS TO THE ACT

On April 11, 1939, the Committee on Education and Labor of the United States Senate began hearings on a number of bills to amend the National Labor Relations Act. The hearings continued during April, May, and June, 1939.

At the opening of the hearings, the Board submitted to the Committee a report on the proposed amendments to the act. This report has been incorporated into the record of the Committee's proceedings.[26] Chairman J. Warren Madden, Board members Edwin S. Smith, Donald Wakefield Smith, and William M. Leiserson (then Chairman of the National Mediation Board), and General Counsel Charles Fahy appeared as witnesses before the Committee.[27]

In the report submitted to the committee, and in the testimony of its Members and General Counsel, the Board made an exhaustive analysis of the proposed amendments, and of the act and its work under its provisions, and stated its position on the proposed amendments.

The hearings before the Senate Committee were still in progress at the close of the fiscal year ended June 30, 1939. The hearings before the Committee continued through July and on August 1, 2, 3, and 4, 1939. On that day, the hearings were adjourned until January 15, 1940.

On May 4, 1939, the Committee on Labor of the House of Representatives began hearings on a number of proposed bills to amend the National Labor Relations Act. The hearings continued through May and June 1939.

At the opening of the hearings, the Board submitted to the Committee a Report on the proposed amendments of the act.[28] Chairman

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[26] Report of the National Labor Relations Board to the Senate Committee on Education and Labor upon S. 1000, S. 1264, S. 1392, S. 1550, and S. 1580, April 1939, printed in Hearings before the Committee on Education and Labor, United States Senate, Seventy-sixth Congress, on National Labor Relations Act and Proposed Amendments (hereinafter referred to as Hearings), Pt. 3, April 26, 1939, pp. 467 to 614, inclusive.

[27] Testimony of J. Warren Madden, Hearings, Pt. 1, April 18, 1939, pp. 99–159; Pt. 2, April 19, 1939, pp. 161–238; Pt. 2, April 24, 1939, pp. 254–325.
Testimony of Edwin S. Smith, Hearings, Pt. 9, June 5, 1939, pp. 1565–1627.
Testimony of Donald Wakefield Smith, Hearings, Pt. 7, May 22, 1939, pp. 1203–1220.
Testimony of William M. Leiserson, Hearings, Pt. 5, May 10, 1939, pp. 917–933; Pt. 6, May 15, 1939, pp. 991–1006.
Testimony of Charles Fahy, Hearings, Pt. 2, April 25, 1939, pp. 327–393; Pt. 3, April 26, 1939, pp. 395–473; Pt. 12, June 23, 1939, pp. 2319–2379.

[28] Report of the National Labor Relations Board to the Committee on Labor of the House of Representatives upon H. R. 2761, H. R. 4376, H. R. 4400, H. R. 4594, H. R. 4749, H. R. 4990, and H. R. 5231, ordered to be made a part of the record of the hearings of the Committee, Hearings before the Committee on Labor, House of Representatives, Seventy-sixth Congress, on Proposed Amendments to National Labor Relations Act (hereinafter referred to as Hearings), Vol. 2, June 7, 1939, p. 626.

J. Warren Madden and General Counsel Charles Fahy appeared as witnesses [29] before the Committee.[30]

In the Report submitted to the Committee, and in the testimony of its Members and General Counsel, the Board made a thorough analysis of the proposed amendments, and of the act and its work under its provisions, and stated its position on the proposed amendments.

The hearings before the House Committee were still in progress at the close of the fiscal year ended June 30, 1939. The hearings before the Committee continued in July 1939 and concluded on July 26, 1939. On that date the hearings were adjourned until January 1940.

On July 20, 1939, the House of Representatives passed a resolution for the appointment of a Committee of five Members of the House to investigate the National Labor Relations Board and the administration of the National Labor Relations Act.[31]

At the time of going to press, the Board, at the request of the Special Committee to Investigate the National Labor Relations Board, appointed by the Speaker of the House pursuant to the resolution, is furnishing material requested by this Committee for its investigation.[32]

F. CERTIFICATION OF REPRESENTATIVES AS BONA FIDE UNDER THE FAIR LABOR STANDARDS ACT OF 1938

During the fiscal year the Board certified a number of labor organizations as bona fide under the provisions of section 7 (b) of the Fair Labor Standards Act of 1938.[33] During the year, the Board received 124 requests for such certification, and issued 113 certifications. Five requests were denied and six were pending on June 30, 1939. Ninety-nine American Federation of Labor unions were so certified, 12 Congress of Industrial Organizations unions, and two unaffiliated unions. The Board has certified labor organizations as bona fide where the labor organization has previously been certified by the Board under section 9 of the National Labor Relations Act, or where the labor organization is an affiliate of an international or parent organization which has previously been certified by the Board under section 9, or where another local of the same international or parent organization has previously been certified under section 9.[34]

The following chapters review in detail the work of the Board during the fiscal year.

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[29] Board Members Edwin S. Smith (Hearings, Vol. 5, July 7, 1939, pp. 1561–1586), and Donald Wakefield Smith (Hearings, Vol. 8, pp. 2166–2183), appeared as witnesses before the Committee after the close of the fiscal year.

[30] Testimony of J. Warren Madden, Hearings, Vol. 2, May 23, 24, 25, 26, 29, and 31, 1939, pp. 307–520.

Testimony of Charles Fahy, Hearings, Vol. 2, May 31, June 2, 6, and 7, 1939. Vol. 3, June 27 and 28, 1939, pp. 1017–1279. (A statement by Mr. Fahy was also inserted into the record, Hearings, Vol. 8, pp. 2143–2166).

[31] H. Res. 258, 76th Cong., 1st sess.

[32] Contrary to usual practice, this section refers to the Hearings of the Senate and House Committees beyond June 30, 1939, as well as to the House resolution of July 20, 1939, to investigate the Board and to the beginning of the investigation by the Special Committee. It is believed that these matters are of sufficient importance to be thus reported.

[33] 52 Stat. 1060; 29 U. S. C. 201–219.

[34] See ch. VI, D., post, for more detailed report.

II. THE NATIONAL LABOR RELATIONS BOARD

A. THE BOARD

During the fiscal year 1939, the members of the Board were as follows: J. Warren Madden, of Pennsylvania, chairman; Edwin S. Smith, of Massachusetts, member; and Donald Wakefield Smith, of Pennsylvania, member, until the appointment and confirmation of William M. Leiserson, of Ohio, on June 1, 1939.

B. ORGANIZATION—WASHINGTON OFFICE

The following major divisions in the Washington office have been established by the Board: Administrative, Legal, Trial Examining, Economic Research, and Information.

The Administrative Division, under the general supervision of the Secretary, is responsible for the coordination of all the divisions of the Board and also for the administrative activities of the Board both in the Washington and regional offices.

The clerical and fiscal work is under the direct supervision of a chief clerk who is directly responsible for the following sections: Accounts, Personnel, Dockets, Files and Mails, Purchase and Supply, Duplicating and Stenographic.

The Secretary, together with the Assistant Secretary and an administrative staff, supervises case development in the field to the extent the Washington office participates therein, to the point where hearings are authorized, and specializes in the labor relations phases of the problems as well as in the formal procedures under the act. The executive office conducts liaison activities with other Government agencies and establishments in matters germane to the handling of the Board's cases.

The Legal Division, under the supervision of the General Counsel, has charge of the legal work involved in the administration of the National Labor Relations Act. This work falls into two main sections, Litigation and Review.

The Litigation Section, headed by the Associate General Counsel, is responsible for two of the main branches of the legal work. First, it supervises the regional attorneys in the presentation of the Board's case in administrative hearings. Second, it represents the Board in all judicial proceedings, which include in the main proceedings in the United States Circuit Courts of Appeals for the enforcement or review of the Board's orders, as well as in all other types of legal action. It collaborates with the Department of Justice in the presentation of arguments before the Supreme Court of the United States. It prepares briefs for presentation to the courts in all judicial proceedings brought by or against the Board.

The Review Section, headed by the Assistant General Counsel, assists the Board in the analysis of the records of hearings in the regions and before the Board in Washington. It receives from the Board its opinions, decisions, directions, and orders and is responsible for drafting these in written form, subject to the continuing supervision of the Board.

The Trial Examining Division is entirely separate from the Legal Division. It operates under the direct supervision of the Chief Trial Examiner, who is attached to the executive staff of the Board. The Chief Trial Examiner assigns trial examiners to hold hearings as agents of the Board. Staff members of this Division are assigned to preside over hearings on formal complaints and petitions for certification of representatives, to make rulings on motions, to prepare intermediate reports containing findings of fact and recommendations for submission to the parties, and to prepare informal reports to the Board.

The Economics Division, under the supervision of the Chief Economist, prepares economic material for use as evidence in the Board's cases, covering at times the business of the particular employer involved in a case before the Board and at times the industry of which this business is a part. It also makes general studies of the economic aspects of labor relations for use of the Board and prepares economic material needed for inclusion in briefs for the courts in cases where the Board is a litigant.

The Information Division, under the supervision of the Director of Information, makes available to the public information regarding the activities of the Board, through releases and answers to oral and written inquiries. Résumés of the Board's decisions and orders and similar information are provided to inquirers and to the press.

C. ORGANIZATION—REGIONAL OFFICES

No substantial modification has been made of the organizational or functional character of the Board's regional offices within the fiscal year.

The regional director is the administrative head of each regional office, under the supervision of the Secretary's office in Washington. He is also in charge of the labor relations work, investigating charges of commission of unfair labor practices and petitions for certification of representatives, attempting to secure compliance with the law without formal procedure, issuing complaints, or refusing to issue complaints, after advising with the regional attorney, and conducting elections as agent of the Board.

The field examiners aid the regional director in his investigations and efforts to secure compliance, in holding elections as agents of the Board, and in other nonadministrative duties.

The regional attorney is the legal officer in the regional office and acts as counsel to the regional director and as counsel for the Board in the conduct of hearings. The regional attorney is assisted in his duties by other attorneys attached to the regional office.

D. REGIONAL OFFICES—LOCATION, TERRITORY, AND DIRECTING PERSONNEL

Region 1, Old South Building, Boston, Mass.	Maine; New Hampshire; Vermont; Massachusetts; Rhode Island; Windham, New London, Tolland, Hartford, and Middlesex Counties in Connecticut.	A. Howard Myers, director; Edward Schneider, attorney.
Region 2, 120 Wall St., New York, N. Y.	Litchfield, New Haven, and Fairfield Counties in Connecticut; Clinton, Essex, Washington, Warren, Saratoga, Schenectady, Albany, Rensselaer, Columbia, Greene, Dutchess, Ulster, Sullivan, Orange, Putnam, Rockland, Westchester, Bronx, New York, Richmond, Kings, Queens, Nassau, and Suffolk Counties in New York State; Sussex, Passaic, Bergen, Warren, Morris, Essex, Hudson, Union, Middlesex, Somerset, Monmouth, and Hunterdon Counties in New Jersey.	Mrs. Elinore M. Herrick, director; Alan Perl, attorney.
Region 3, Federal Building, Buffalo, N. Y.	New York State, except for those counties included in the second region.	Henry J. Winters, director; Edward Flaherty, attorney.
Region 4, Bankers Securities Building, Philadelphia, Pa.	Mercer, Ocean, Burlington, Atlantic, Camden, Gloucester, Salem, Cumberland, and Cape May Counties in New Jersey; New Castle County in Delaware; all of Pennsylvania lying east of the eastern borders of Potter, Clinton, Centre, Mifflin, Huntingdon, and Franklin Counties.	Bennet F. Schauffler, director; Samuel G. Zack, attorney.
Region 5, 1109 Standard Oil Building, Baltimore, Md.	Kent and Sussex Counties in Delaware; Maryland; District of Columbia; Virginia; North Carolina; Jefferson, Berkeley, Morgan, Mineral, Hampshire, Grant, Hardy, and Pendleton Counties in West Virginia.	William M. Aicher, director; Lester Levin, attorney.

Region 6, 2107 Clark Building, Pittsburgh, Pa.	All of Pennsylvania lying west of the eastern borders of Potter, Clinton, Centre, Mifflin, Huntingdon, and Franklin Counties; Hancock, Brooke, Ohio, Marshall, Wetzel, Monongalia, Marion, Harrison, Taylor, Doddridge, Preston, Lewis, Barbour, Tucker, Upshur, Randolph, Webster, and Pocahontas Counties in West Virginia.	Charles T. Douds, director; Robert H. Kleeb, attorney.
Region 7, National Bank Building, Detroit, Mich.	Michigan, exclusive of Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, Iron, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Chippewa, and Mackinac Counties.	Frank H. Bowen, director; Harold Cranefield, attorney.
Region 8, 820 N. B. C. Building, Cleveland, Ohio.	Ohio, north of the southern borders of Darke, Miami, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, and Belmont Counties.	Oscar S. Smith, director; Harry L. Lodish, attorney.
Region 9, 445 United States Post Office and Courthouse, Cincinnati, Ohio.	West Virginia, west of the western borders of Wetzel, Doddridge, Lewis, and Webster Counties and southwest of the southern and western borders of Pocahontas County; Ohio, south of the southern borders of Darke, Miami, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, and Belmont Counties; Kentucky, east of the western borders of Hardin, Hart, Barren, and Monroe Counties.	Philip G. Phillips, director; Oscar Grossman, attorney.
Region 10, Ten Forsyth Street Building, Atlanta, Ga.	South Carolina; Tennessee; Georgia; Alabama, north of the northern borders of Choctaw, Marengo, Dallas, Lowndes, Montgomery, Macon, and Russell Counties.	Charles N. Feidelson, director; Warren Woods, attorney.

Region 11, Architects Building, Indianapolis, Ind.	Indiana, except for Lake, Porter, La Porte, St. Joseph, Elkhart, Lagrange, Noble, Steuben, and De Kalb Counties; Kentucky west of the western borders of Hardin, Hart, Barren, and Monroe Counties.	Robert H. Cowdrill, director; Arthur Donovan, attorney.
Region 12, Madison Building, Milwaukee, Wis.	Wisconsin; Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, Iron, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Chippewa, and Mackinac Counties in Michigan.	John G. Shott, director; Frederick P. Mett, attorney.
Region 13, 20 North Wacker Drive, Chicago, Ill.	Lake, Porter, La Porte, St. Joseph, Elkhart, Lagrange, Noble, Steuben, and De Kalb Counties in Indiana; Illinois, north of the northern borders of Edgar, Coles, Shelby, Christian, Montgomery, Macoupin, Greene, Scott, Brown, and Adams Counties.	G. L. Patterson, director; Isaiah S. Dorfman, attorney.
Region 14, United States Court and Customhouse, St. Louis, Mo.	Illinois, south of the northern borders of Edgar, Coles, Shelby, Christian, Montgomery, Macoupin, Greene, Scott, Brown, and Adams Counties; Missouri, east of the western borders of Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Phelps, Dent, Shannon, and Oregon Counties.	Miss Dorothea de Schweinitz, director; Thurlow Smoot, attorney.
Region 15, Hibernia Bank Building, New Orleans, La.	Louisiana; Arkansas; Mississippi; Florida; Alabama, south of the northern borders of Choctaw, Marengo, Dallas, Lowndes, Montgomery, Macon, and Russell Counties.	Charles H. Logan, director; Samuel Lang, attorney.
Region 16, Federal Court Building, Fort Worth, Tex.	Oklahoma, Texas.	Edwin A. Elliott, director; Elmer P. Davis, attorney.

Region 17, 245 United States Courthouse and Post Office, Kansas City, Mo.	Missouri, west of the western borders of Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Phelps, Dent, Shannon, and Oregon Counties; Kansas; Nebraska.	Hugh E. Sperry, director; Joseph A. Hoskins, attorney.
Region 18, New Post Office Building, Minneapolis, Minn.	Minnesota, North Dakota, South Dakota, Iowa.	Robert J. Wiener, director; Lee Loevinger, attorney.
Region 19, Dexter-Horton Building, Seattle, Wash.	Washington, Oregon, Idaho, Territory of Alaska.	Elwyn J. Eagen, director; Thomas Graham, attorney.
Region 20, 1095 Market St., San Francisco, Calif.	Nevada; California, north of the southern borders of Monterey, Kings, Tulare, and Inyo Counties; Territory of Hawaii.	Mrs. Alice M. Rosseter, director; John McTernan, attorney.
Region 21, 808 United States Post Office and Courthouse, Los Angeles, Calif.	Arizona; California, south of the southern borders of Monterey, Kings, Tulare, and Inyo Counties.	Walter P. Spreckels, director; William R. Walsh, attorney.
Region 22, Central Savings Bank Building, Denver, Colo.	Montana, Utah, Wyoming, Colorado, New Mexico.	Aaron W. Warner, director; Paul Kuelthau, attorney.

III. PROCEDURE OF THE BOARD

The procedure of the Board, as set forth in the act and elaborated in the Board's Rules and Regulations, has been discussed in detail in previous annual reports of the Board.[1] The practice so established remained comparatively undisturbed during the year. It is simple and the experience of the last fiscal year has demonstrated that it is well-understood by labor organizations, employers, and others concerned in proceedings before the Board.

[1] First Annual Report, ch. V, pp. 21–28; Third Annual Report, ch. III, pp. 16–17.

IV. WORK OF THE BOARD

Under the act the Board has two main functions—to prevent employers from engaging in any of the unfair labor practices affecting commerce listed under section 8 of the act and to investigate any controversy affecting commerce which has arisen concerning the representation of employees and certify the name or names of the representatives that have been selected. The latter function is authorized in section 9 (c) of the act.

Cases arising under section 8 of the act are known as unfair labor practice cases, or complaint cases. Cases arising under section 9 (c) of the act are referred to as representation cases.

An outline of the procedure adopted by the Board with respect to these two types of cases and the manner in which such cases have been handled during the fiscal year ending June 30, 1939, are given in chapters V and VI of this report.

A. STATISTICAL SUMMARY

Cases on docket July 1, 1938, to June 30, 1939.—On June 30, 1938, there were pending before the Board 3,778 cases, involving 1,302,161 workers.[1] Between that date and June 30, 1939, the Board and its 22 regional offices received 6,904 charges and petitions, involving 1,147,284 workers. Thus, 10,682 cases, involving 2,449,445 workers, were before the Board for consideration during the fiscal year 1938–39.

Cases closed July 1, 1938, to June 30, 1939.—During that period, the Board and its regional offices disposed of 6,569 cases, involving 1,028,959 workers. This constituted 61 percent of all cases on its docket during the fiscal year.

In 2,942 cases, or 44.8 percent of all cases closed, settlements in compliance with the act were secured after a preliminary investigation by agents of the Board which resulted in an agreement among the interested parties. In 803 cases, or 12.2 percent of all cases closed, the regional director refused to issue a complaint after an investigation had revealed that the facts did not warrant the institution of formal proceedings. In an additional 1,749 cases, or 26.6 percent of all those closed, where investigation also revealed that the facts did not warrant the institution of formal proceedings, the parties filing the cases withdrew them, on having that fact pointed out to them by the Board or its agents. Forty more cases were closed before the institution of formal proceedings, through other methods, such as transfer from one regional office to another. Thus, of the 6,569 cases closed during the fiscal year 1938–39, 5,534, or 84.2 percent, were closed without any formal action by the Board.

In only 1,035 cases, or 15.8 percent of all cases closed in the fiscal

[1] The figures given in the Third Annual Report (p. 20) were 3,781 cases and 1,285,870 workers. These figures were revised upon the receipt of additional information from the regional offices.

year 1938–39, did the closing involve formal proceedings before the Board. Two hundred and fifty-seven of these cases, or 4 percent of all cases closed, were settled, dismissed, or withdrawn after formal proceeding had begun but before a Board decision had been issued. In 35 additional cases, or 0.5 percent of all cases closed in the fiscal year, disposition followed the issuance of intermediate reports but preceded the issuance of decisions by the Board. Of these cases 9 were closed by the dismissal of the charges by the trial examiner and 26 by compliance with the recommendations of the trial examiner. In only 743 cases, or 11.3 percent, did final disposition follow the issuance of decisions and orders by the Board.

Table I shows the number of cases on docket, the number of workers involved, and the various methods by which the Board's cases were disposed of during the fiscal year ending June 30, 1939, as well as the total number of cases pending on that date.

TABLE I.—*Disposition of all charges and petitions on docket July 1, 1938, to June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	3,778		35.4	1,302,161		53.2
Cases received July 1, 1938, to June 30, 1939	6,904		64.6	1,147,284		46.8
Total cases on docket	10,682		100.0	2,449,445		100.0
Cases closed before formal action:						
By settlement	2,942	44.8	27.5	341,142	33.2	13.9
By dismissal	803	12.2	7.5	116,663	11.3	4.8
By withdrawal	1,749	26.6	16.4	283,068	27.5	11.6
Otherwise [1]	40	.6	.4	18,807	1.8	.7
Total cases closed before formal action	5,534	84.2	51.8	759,680	73.8	31.0
Cases closed after formal action: [2]						
By settlement before hearing	44	.7	.4	9,312	.9	.4
By settlement after hearing	83	1.3	.8	24,064	2.3	1.0
By dismissal before hearing	13	.2	.2	5,642	.5	.2
By dismissal after hearing	26	.4	.3	5,677	.6	.2
By withdrawal before hearing	35	.5	.3	5,014	.5	.2
By withdrawal after hearing	56	.9	.5	16,608	1.6	.7
By intermediate report finding no violation	9	.1	.1	840	.1	[3]
By compliance with intermediate report	26	.4	.2	2,983	.3	.1
By issuance of decisions and orders:						
Certification	364	5.5	3.4	123,172	12.0	5.0
Compliance [4]	207	3.2	1.9	40,276	3.9	1.7
Dismissal of complaint or petition	172	2.6	1.6	35,691	3.5	1.5
Total cases closed after formal action	1,035	15.8	9.7	269,279	26.2	11.0
Total cases closed July 1, 1938, to June 30, 1939	6,569	100.0		1,028,959	100.0	
Cases pending June 30, 1939	4,113		38.5	1,420,486		58.0

[1] Includes cases transferred from one regional office to another.
[2] By "formal action" is meant the issuance of a complaint in an unfair labor practice case and the issuance of a notice of hearing in a representation case.
[3] Less than 0.05 percent.
[4] Includes 19 cases which were closed without full compliance with Board orders. In these cases the Board did not enforce its orders for various reasons.

Cases pending as of June 30, 1939.—Of the 10,682 cases on the docket during the fiscal year 1938–39, 4,113 cases remained on the docket on June 30, 1939. Of these pending cases 2,389, or 58 percent, were under investigation in the regional offices. In 211 cases, or 5 percent of the total, the investigation had been completed and the institution of formal proceedings authorized. Awaiting the commencement of hearings were 129 cases, or 3 percent of the total. In 40 cases, or 1 percent, hearings were being held. In 179 cases, or 4 percent of the total, hearings had been held but intermediate reports had yet to be issued. Six hundred and eighty-three cases, or 17 percent of the total were awaiting decision by the Board. Finally, 482 cases, or 12 percent of the total, were awaiting either compliance with Board decisions or certification in cases where elections had been directed.

Decisions issued and cases heard.—In the 12 months covered by this report, the Board held hearings in 1,048 cases, all of which were conducted by trial examiners designated by the Chief Trial Examiner.[2] This number includes hearings held both in cases closed by the Board during the year and in cases still pending before the Board on June 30, 1939.

The Board issued decisions in 893 cases. This figure includes cases in which hearings were held prior to July 1, 1938, as well as cases heard during the fiscal year 1938–39. These cases constitute 8.6 percent of all cases on the docket, excluding the 316 cases which on June 30, 1938, had already been decided but were either awaiting compliance with the decisions of the Board in unfair labor practice cases or certification after elections directed by the Board. Included in the 893 cases decided were 512 cases involving the question of representation and 381 cases involving charges of unfair labor practices.

Settlements.—The Board has attempted in every way possible to reduce to a minimum the time elapsing between the initiation and the closing of a case before it. To that end, it has encouraged the effectuation of settlements without recourse to formal Board procedure. The ability of the regional director to secure settlements without recourse to formal Board decisions and orders has meant the rapid removal from the area of possible industrial conflict of disputes which, by their nature, are likely to lead to economic strife. The Board is gratified to report, therefore, that in 3,069 cases substantial compliance with the act was secured by agreement between the parties prior to the issuance of a Board decision. These cases represent 46.8 percent of all cases disposed of during the period.

These settlements, which include the 2,942 cases settled before the beginning of any formal action and 127 cases settled after formal action was begun but before the issuance of a Board decision, secured substantial complionce with the act.

In most instances intervention took place before the disputes involved had advanced to a stage of strikes or threatened strikes. The issues in these disputes—discrimination and union recognition—were the issues which have caused a large percentage of strikes in the United States for many years. It seems safe to assume, therefore, that but for the intervention of the Board a large proportion of

[2] All data on hearings include only those hearings which were closed on or before June 30, 1939. On that date hearings were still in progress in 40 cases.

these disputes would have culminated in strikes.[3] In 405 cases strikes and lockouts were already in progress when the Board intervened. As a result of the Board's activities these 405 disputes were settled and 51,660 workers reinstated. In addition, the Board through its activities during the year, averted 143 strikes, involving 25,276 workers.

Of the 3,069 cases settled by the Board, 2,072 were cases involving unfair labor practices. The settlements in these cases covered every type of unfair labor practice listed under section 8 of the act. It should be noted that the settlements in most of the cases covered more than one violation of the act. The figures given below show the number of settlements under each of the five unfair labor practices listed in section 8 of the act.

In 712 of the cases in which settlements were affected, employers were charged with interference with the rights of workers as guaranteed under section 7 of the act. As a result of the settlements, they agreed to post notices which, in general, stated that they agreed to cease and desist from interference with their employees' right of self-organization. These notices affected 118,367 workers.

In 142 cases in which settlements were secured, the employers were charged with dominating and interfering with labor organizations of their employees, contrary to section 8 (2) of the act. The settlements in these cases involved their agreement to cease dominating and interfering with these labor organizations. Such settlements affected 36,213 workers.

In 948 cases in which settlements were secured, the employers were charged with violating section 8 (3) of the act which forbids employers from discriminating against their employees for union activity. The settlements in these cases resulted in the reinstatement of 6,155 workers and 337 cases involving 1,818 workers led to the payment of $273,918 in back wages. These back wages were paid to workers who had been forced out of employment in violation of the act.

One of the major causes of labor disputes is the unwillingness on the part of employers to recognize the chosen representatives of their employees. Thus, the settlement of charges arising under section 8 (5) of the act, which makes the refusal of employers to bargain collectively with the representatives of their employees an unfair labor practice, is a contribution to industrial peace.

Through Board intervention and in the informal stages of the Board's proceedings, employers agreed to recognize unions in 877 cases, affecting 128,944 workers. As a result of this recognition collective bargaining contracts were consummated in 745 cases. Of these 745 contracts, 618 were reduced to writing and 127 were based on oral understandings. In an additional 43 cases, collective bargaining was going on at the time the Board's cases were closed and the results of such negotiations are not available.

The above information on settlements is not a complete summary of the results of Board intervention in labor disputes arising under the act during the fiscal year 1938–39. The number of workers reinstated does not include those workers who refused reinstatement because they already had secured positions elsewhere. No information is given on settlements which result in improved working condi-

[3] See appendix A, p. 187.

tions nor on settlements resulting in the restoration of seniority rights to workers, the reinstatement of workers to better jobs, the agreement to live up to existing contracts, the restoration of wage cuts, the cessation of discriminatory tactics in conditions of employment.

These settlements were effected in cases involving charges of unfair labor practices. In addition, during the fiscal year 1938–39, the Board settled 997 questions of representation without the necessity for formal Board decisions.

Of these 997 settlements, 478 were based on consent elections, held as a result of an agreement among the interested parties to the proceedings. In nearly all such settlements the employer agreed to recognize the successful union for the purposes of collective bargaining. In these settlements by consent elections, 87,310 workers were involved.

In an additional 267 cases, the employers gave outright recognition to the unions involved when evidence was produced that the union represented a majority of the workers. The number of workers involved in such settlements was 39,103.

Finally, the Board settled 252 questions of representation on the basis of pay-roll checks. Under this method, a comparison is made between the membership cards of the union and the pay-roll of the employer involved to determine whether or not a majority of the workers have selected the petitioning union as their representative. These settlements affected 25,326 workers.

The settlement of these 997 questions of representation resulted in collective bargaining agreements, a large majority of which were written.

Compliance with the recommendations of trial examiners.—In 26 cases, compliance was secured after the issuance of recommendations by the trial examiner without any further action by the Board. In a few additional cases, settlements resulting in substantial compliance with the act were obtained after the issuance of recommendations by the trial examiner without further action by the Board. As a result of such settlements, 24 employers agreed to post notices, affecting 4,800 workers; six employers agreed to cease dominating or interfering with labor organizations of their employees; eight contracts with labor organizations were entered into, six written and two oral; and finally in 11 cases, 39 workers were reinstated after discriminatory discharge and, in 14 cases, a total of 44 workers received $15,915 in back wages.

Compliance with Board decisions and orders.—During the fiscal year ending June 30, 1939, the Board closed 188 cases by compliance with decisions and orders. These cases went through all the formal stages of Board procedure; some of the orders were complied with after enforcement by the courts. Although these 187 cases were formally closed during the fiscal year 1938–39, this figure includes cases in which the affirmative portions of the Board's order had been complied with in previous years. They were considered pending because the effects of unfair labor practices had not yet been completely dissipated. It should, therefore, be kept in mind that the data given below cover, in part, events occurring prior to the fiscal year 1938–39.

In 40 cases, the issuance of Board orders led to the recognition by employers of the unions chosen by their employees. Sixteen of these employers entered into collective bargaining contracts, 11 written and

5 oral. In one case, the employer was negotiating with the union's representatives at the time the Board closed the case.

A total of 167 employers posted notices, affecting 66,495 workers, indicating compliance with the act.

In 91 cases, employers agreed to cease and desist from dominating and interfering with labor organizations of their employees. In cases of this type, a number of company-dominated unions were disestablished.

In 87 cases, employers reinstated 1,544 workers after the Board held that these workers had been discriminatorily discharged. In 93 cases, a total of 1,201 workers received $368,690 in back wages lost while they were unemployed because of discharge for union activity or union membership.

Summarizing the results of the operations of the Board during the fiscal year 1938–39, in terms of what restitution was made to workers and to labor organizations against whom unfair labor practices had been committed, it is found that:

1. In a total of 923 unfair labor practice cases, involving 134,326 workers, unions were recognized for the purposes of collective bargaining.
2. A total of 769 collective bargaining contracts, involving 95,937 workers, were entered into. Of these, 635 were reduced to writing and 134 were based on oral understandings. In an additional 44 cases, negotiations were going on at the time the cases were closed.
3. In 903 cases, employers posted notices that they would cease all unfair labor practices. These postings affected 189,662 workers.
4. Employers ceased dominating and interfering with labor organizations of their employees in 245 cases, affecting 96,091 workers.
5. A total of 7,738 workers were reinstated after discriminatory discharge.
6. A total of $658,523 was paid in back wages to 3,063 workers.

B. ANALYSIS OF CASES BY UNIONS INVOLVED

In this section there is presented an analysis of the disposition of cases with a breakdown according to the unions filing the charges or petitions.

Cases closed.—Of the 10,682 cases on the docket during the fiscal year 1938–39, 4,176 were filed by A. F. of L. unions, 5,025 by C. I. O. affiliates, 847 by unaffiliated labor organizations, and 634 by individuals.[4]

During the year 63.3 percent of the A. F. of L. cases and 59.7 per cent of the C. I. O. cases were disposed of.

Settlements prior to the institution of formal proceedings were effected in 50.2 percent of the A. F. of L. cases, and in 44.5 percent of the C. I. O. cases.

In 25.0 percent of the cases they filed, A. F. of L. affiliates agreed to withdraw their cases after an investigation revealed that the Board could not take any action under the provisions of the act. The Board dismissed 12.0 percent of their cases, this procedure being followed where the unions did not choose to withdraw. C. I. O. unions withdrew 27.3 percent of their cases and had 7.8 percent dismissed by the Board.

[4] In cases where unions changed their affiliation during the proceedings, their affiliation at the time of filing the charge or petition was the determining factor. It should also be noted that cases filed by individuals include only unfair labor practice cases. (See footnote, page 47.)

In other words, the Board and its agents, after appropriate investigation, found that 37.0 percent of the A. F. of L. cases and 35.1 percent of the C. I. O. cases were without merit.

As has been indicated, some of the Board's cases are disposed of prior to the issuance of decisions by the Board even though formal action has been instituted. This occurred in 3.8 percent of the A. F. of L. cases and 5.0 percent of the C. I. O. cases. Finally, the Board closed 8.4 percent of the A. F. of L. cases, and 14.9 percent of the C. I. O. cases after the issuance of decisions and orders

Decisions issued and hearings held.—The Board held hearings in 286 A. F. of L. cases, and 636 C. I. O. cases during the year. It issued decisions in 252 A. F. of L. cases and 600 C. I. O. cases. These figures constitute 6.2 percent and 12.4 percent, respectively, of cases on the docket filed by each of these labor organizations, excluding those cases already decided on June 30, 1938, but then awaiting either compliance with Board decisions or certification after the direction of elections.

Tables II through IV show the disposition of cases filed by A. F. of L. unions, C. I. O. affiliates, and unaffiliated unions.[5]

TABLE II.—*Disposition of all charges and petitions of American Federation of Labor unions on docket July 1, 1938, to June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	1,182		28.3	210,452		39.8
Cases received July 1, 1938, to June 30, 1939	2,994		71.7	317,936		60.2
Total cases on docket	4,176		100.0	528,388		100.0
Cases closed before formal action:						
By settlement	1,326	50.2	31.8	136,354	46.2	25.8
By dismissal	318	12.0	7.6	38,205	13.0	7.2
By withdrawal	662	25.0	15.9	44,897	15.2	8.6
Otherwise	15	.6	.3	1,709	.6	.3
Total cases closed before formal action	2,321	87.8	55.6	221,165	75.0	41.9
Cases closed after formal action:						
By settlement before hearing	15	.6	.3	2,682	.9	.5
By settlement after hearing	28	1.1	.7	11,710	4.0	2.2
By dismissal before hearing	4	.2	.1	393	.1	.1
By dismissal after hearing	9	.3	.2	3,394	1.2	.7
By withdrawal before hearing	12	.4	.3	2,295	.8	.4
By withdrawal after hearing	17	.6	.4	2,186	.7	.4
By intermediate report finding no violation	4	.2	.1	577	.2	.1
By compliance with intermediate report	12	.4	.3	777	.3	.2
By issuance of decisions and orders:						
Certification	79	3.0	1.9	18,693	6.3	3.5
Compliance	88	3.3	2.1	18,642	6.3	3.5
Dismissal of complaint or petition	56	2.1	1.3	12,395	4.2	2.3
Total cases closed after formal action	324	12.2	7.7	73,744	25.0	13.9
Total cases closed July 1, 1938, to June 30, 1939	2,645	100.0		294,909	100.0	44.2
Cases pending June 30, 1939	1,531		36.7	233,479		

[5] Cases filed by individuals include only unfair labor practice cases. (See footnote, p. 47.) Table XIII, p. 41, shows the disposition of these cases.

TABLE III.—*Disposition of all charges and petitions of Congress of Industrial Organizations unions on docket July 1, 1938, to June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	2,123		42.2	967,215		61.5
Cases received July 1, 1938 to July 1, 1939	2,902		57.8	606,206		38.5
Total cases on docket	5,025		100.0	1,573,421		100.0
Cases closed before formal action:						
By settlement	1,335	44.5	26.6	169,528	28.6	10.8
By dismissal	233	7.8	4.6	27,855	4.7	1.8
By withdrawal	819	27.3	16.3	210,428	35.5	13.4
Otherwise	16	.5	.3	9,393	1.6	.6
Total cases closed before formal action	2,403	80.1	47.8	417,204	70.4	26.6
Cases closed after formal action:						
By settlement before hearing	24	.8	.5	5,894	1.0	.4
By settlement after hearing	32	1.1	.6	12,083	2.0	.8
By dismissal before hearing	9	.3	.2	5,249	.9	.3
By dismissal after hearing	17	.6	.3	2,283	.4	.1
By withdrawal before hearing	22	.7	.4	2,544	.4	.2
By withdrawal after hearing	26	.8	.5	10,198	1.7	.7
By intermediate report finding no violation	5	.2	.1	263	(1)	(1)
By compliance with intermediate report	14	.5	.3	2,206	.4	.1
By issuance of decisions and orders:						
Certification	245	8.1	4.9	98,097	16.5	6.2
Compliance	109	3.6	2.2	21,072	3.6	1.3
Dismissal of complaint or petition	95	3.2	1.9	16,085	2.7	1.0
Total cases closed after formal action	598	19.9	11.9	175,974	29.6	11.1
Total cases closed July 1, 1938 to June 30, 1939	3,001	100.0		593,178	100.0	
Cases pending June 30, 1939	2,024		40.3	980,243		62.3

[1] Less than 0.05 percent.

TABLE IV.—*Disposition of all charges and petitions of unaffiliated unions on docket July 1, 1938, to June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	358		42.3	122,259		36.1
Cases received July 1, 1938, to June 30, 1939	489		57.7	216,712		63.9
Total cases on docket	847		100.0	338,971		100.0
Cases closed before formal action:						
By settlement	153	29.1	18.1	34,698	25.2	10.2
By dismissal	110	20.9	13.0	48,923	35.5	14.4
By withdrawal	145	27.5	17.1	27,081	19.6	8.0
Otherwise	9	1.7	1.1	7,705	5.6	2.3
Total cases closed before formal action	417	79.2	49.3	118,407	85.9	34.9
Cases closed after formal action:						
By settlement before hearing	4	.8	.5	736	.5	.2
By settlement after hearing	23	4.4	2.7	271	.2	.1
By dismissal before hearing						
By dismissal after hearing						
By withdrawal before hearing	1	.2	.1	175	.1	.1
By withdrawal after hearing	13	2.5	1.5	4,224	3.1	1.2
By intermediate report finding no violation						
By compliance with intermediate report						
By issuance of decisions and orders:						
Certification	40	7.6	4.7	6,382	4.6	1.9
Compliance	8	1.5	.9	552	.4	.2
Dismissal of complaint or petition	20	3.8	2.4	7,210	5.2	2.1
Total cases closed after formal action	109	20.8	12.8	19,550	14.1	5.8
Total cases closed July 1, 1938 to June 30, 1939	526	100.0		137,957	100.0	
Cases pending June 30, 1939	321		37.9	201,014		59.3

Settlements and compliance.—If all cases involving A. F. of L. unions closed during the fiscal year 1938–39 are grouped together, it appears that these unions gained the following benefits:

1. Employers recognized 434 A. F. of L. unions in situations involving 62,853 workers.

2. As a result of this recognition, A. F. of L. unions and employers entered into 374 collective bargaining contracts; 295 written and 79 oral. In an additional 24 cases, collective bargaining was going on at the time the cases were closed.

3. Notices were posted in 451 establishments, affecting 84,577 workers. In these notices, employers stated that they would cease committing unfair labor practices against A. F. of L. unions and their members.

4. As a result of the filing of charges by A. F. of L. unions, a total of 97 employers agreed to cease interfering with and dominating labor organizations of their employees. These 97 cases affected 23,855 workers.

5. A total of 3,305 members of A. F. of L. unions were reinstated and a total of $255,370 was paid in back wages to 1,370 members of A. F. of L. affiliates.

If all cases involving C. I. O. unions closed during the fiscal year are grouped together, it appears that unions affiliated with the C. I. O. secured the following benefits under the act:

1. In 436 cases, involving 55,790 workers, C. I. O. unions were recognized for the purposes of collective bargaining.

2. As a result of this recognition 347 contracts were entered into between C. I. O. unions and employers, 301 written and 46 oral. In 19 cases, negotiations for an agreement were in process when the Board closed the cases.

3. In 379 cases, involving 92,686 workers, employers posted notices which stated that all unfair labor practices as defined in the act would cease.

4. In 141 cases the employers agreed to cease dominating and interfering with labor organizations.

5. A total of 4,019 members of C. I. O. unions were reinstated after having been discriminatorily discharged. A total of $365,560 in back wages was paid to 1,512 workers.

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V. UNFAIR LABOR PRACTICE CASES

A. STATISTICAL SUMMARY OF UNFAIR LABOR PRACTICE CASES

Section 7 of the act provides that "employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection." Section 8 of the act lists the five types of employer activities which interfere with the rights of workers as guaranteed under section 7 of the act. When an employer who comes within the jurisdiction of the act engages in any one or more of these unfair labor practices the complaining individual or labor organization files a charge which contains a "clear and concise statement of facts constituting the alleged unfair labor practices affecting commerce." [1]

The unfair labor practices set forth in section 8 include interference with, restraint and coercion of employees in the exercise of their rights guaranteed in section 7 of the act (section 8 (1)); domination of and interference with the formation or administration of labor organizations (section 8 (2), the "company union" (subsection); discrimination against workers for union activity (section 8 (3)); discrimination against workers for filing charges or testifying under the act (section 8 (4)); and refusal on the part of employers to bargain collectively with the chosen representatives of their employees (section 8 (5)).

The Board has ruled that the violation of any of the four subsections of section 8 other than section 8 (1) is also a violation of section 8 (1) of the act. Therefore, all charges filed with the Board include the allegation that section 8 (1) has been violated. In some instances, however, certain unfair labor practices fall into the category of violation of section 8 (1) but are not violations of any of the other four subsections of section 8.

Cases of violation of section 8 are generally referred to as "unfair labor practice cases."

Unfair labor practice cases on docket July 1, 1938, to June 30, 1939.—On June 30, 1938, the Board had pending before it a total of 2,514 unfair labor practice cases, involving 705,173 workers. [2] These cases can be divided into two groups. One group includes cases which on June 30, 1938, were pending in the regional offices, awaiting either investigation, the issuance of a complaint, the commencement

[1] Rules and Regulations, art. II, sec. 4.

[2] The figures as given in the Third Annual Report (p. 31) were 2,519 cases and 696,464 workers. These figures were revised upon the receipt of additional information from the regional offices.

of a hearing, or the issuance of an intermediate report by a trial examiner. This was by far the larger of the two groups. The other group includes cases which on June 30, 1938, were awaiting either the decision of the Board or compliance with the decision and order of the Board.

In addition to the 2,514 unfair labor practice cases awaiting further action on June 30, 1938, there were filed with the regional offices and the Board during the ensuing fiscal year 4,618 unfair labor practice cases, involving 665,102 workers. Thus, a total of 7,132 unfair labor practice cases, involving 1,370,275 workers, were on the dockets of the Board during the fiscal year ending June 30, 1939.

Analysis of charges on docket July 1, 1938, to June 30, 1939.—As stated above, the unfair labor practice cases may include any one or more charges of violation of section 8 of the act. A break-down of these charges is given in tables V and VI. Table V shows the number of unfair labor practice cases pending before the Board and the regional offices on June 30, 1938, with an analysis of the various charges of unfair labor practices. A similar break-down for unfair labor practice cases received during the fiscal year covered by this report, by regions, is given in table VI.

TABLE V.—*Analysis of charges pending as of June 30, 1938*

	Number of unfair labor practice cases pending June 30, 1938	Number of charges involving subsections of section 8					Number of charges by subsections of section 8 involved													
		1	2	3	4	5	1 and 3	1 and 5	1, 3, and 5	1, 2, and 3	1, 2, 3, and 5	1	1 and 2	1 and 4	1, 2, and 5	1, 3, and 4	1, 4, and 5	1, 2, and 4	1, 2, 3, and 4	1, 3, 4, and 5	1, 2, 3, 4, and 5
Board [1]	6	6	5	6	-----	2	1	-----	-----	3	2	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
Region:																					
1. Boston	109	109	35	71	-----	42	39	18	12	13	7	5	10	-----	5	-----	-----	-----	-----	-----	-----
2. New York	332	332	89	263	8	144	123	31	78	36	19	4	19	1	14	4	-----	-----	1	2	-----
3. Buffalo	54	54	21	37	1	26	14	5	11	5	6	2	6	-----	4	1	-----	-----	-----	-----	-----
4. Philadelphia	148	148	63	106	2	52	52	15	14	24	14	4	15	-----	8	-----	-----	-----	1	-----	1
5. Baltimore	166	166	37	125	1	49	73	17	28	20	3	10	13	-----	1	1	-----	-----	-----	-----	-----
6. Pittsburgh	57	57	26	46	-----	14	24	1	4	10	8	2	7	-----	1	-----	-----	-----	-----	-----	-----
7. Detroit	94	94	40	66	1	31	30	12	9	18	8	3	11	-----	2	-----	-----	-----	1	-----	-----
8. Cleveland	83	83	27	68	3	27	38	6	10	8	9	1	8	-----	-----	1	-----	-----	-----	-----	2
9. Cincinnati	165	165	29	111	3	77	63	43	23	13	9	5	4	-----	2	2	-----	-----	1	-----	-----
10. Atlanta	119	119	28	104	6	38	52	8	21	17	9	5	1	1	-----	4	-----	-----	1	-----	-----
11. Indianapolis	115	115	57	87	2	50	29	14	13	29	14	2	3	-----	9	-----	-----	-----	2	-----	-----
12. Milwaukee	93	93	34	61	-----	34	31	8	8	11	11	12	5	-----	7	-----	-----	-----	-----	-----	-----
13. Chicago	154	154	58	115	8	57	49	15	22	22	15	3	15	1	5	6	-----	-----	1	-----	-----
14. St. Louis	48	48	19	42	1	28	10	5	13	9	9	-----	-----	-----	1	1	-----	-----	-----	-----	-----
15. New Orleans	101	101	12	62	2	53	33	33	18	7	2	3	3	-----	-----	2	-----	-----	-----	-----	-----
16. Fort Worth	81	81	32	58	7	30	27	4	12	6	7	1	12	-----	5	4	1	-----	1	-----	1
17. Kansas City	102	102	36	86	1	40	32	13	20	27	6	-----	2	-----	1	1	-----	-----	-----	-----	-----
18. Minneapolis	48	48	15	32	2	20	14	10	7	7	2	-----	5	-----	1	2	-----	-----	-----	-----	-----
19. Seattle	114	114	20	93	2	49	50	13	28	8	5	1	5	-----	2	1	-----	-----	-----	1	-----
20. San Francisco	122	122	18	98	1	73	28	13	57	11	2	6	3	-----	1	-----	-----	1	-----	-----	-----
21. Los Angeles	137	137	29	86	1	67	43	34	22	11	9	8	7	-----	2	1	-----	-----	-----	-----	-----
22. Denver	66	66	25	36	2	29	20	14	4	6	4	2	8	-----	6	1	-----	-----	-----	-----	1
Total	2,514	2,514	755	1,859	54	1,032	875	332	434	321	180	79	162	3	77	32	1	1	9	3	5

[1] Cases in which the Board assumed original jurisdiction.

TABLE VI.—*Analyses of charges received during fiscal year ending June 30, 1939*

	Number of unfair labor practice cases received	Number of charges involving subsections of section 8					Number of charges by subsections of section 8 involved														
		1	2	3	4	5	1 and 3	1 and 5	1, 3, and 5	1, 2, and 3	1, 2, 3, and 5	1	1 and 2	1 and 4	1, 2, and 5	1, 3, and 4	1, 4, and 5	1, 2, and 4	1, 2, 3, and 4	1, 3, 4, and 5	1, 2, 3, 4, and 5
Board [1]	4	4	1	2		3	1	1	1						1						
Region:																					
1. Boston	315	315	32	208	3	94	159	58	28	13	5	35	11		3	3					
2. New York	720	720	104	469	8	337	290	175	123	28	20	30	37		18	6			1	1	
3. Buffalo	70	70	9	49	2	26	33	13	11	3		3	3		2	1			1		
4. Philadelphia	159	159	21	77		93	41	63	23	7	6	11	7		1						
5. Baltimore	289	289	29	188	5	84	149	58	25	10		23	18	1	1	4					
6. Pittsburgh	119	119	16	96	2	16	80	9	5	7	2	7	7			2					
7. Detroit	154	154	33	122	1	44	85	18	12	13	12	5	6	1	2						
8. Cleveland	141	141	27	99	1	31	89	15	8	6	4	11	12		4				1		
9. Cincinnati	278	278	18	162	5	100	123	70	24	7	3	39	5		2	4					1
10. Atlanta	136	136	9	98	5	50	67	27	18	5	3	10			1	4				1	
11. Indianapolis	158	158	28	114	2	58	64	20	33	11	4	11	12		1	2					
12. Milwaukee	170	170	25	116	2	79	61	30	45	7	1	7	14		3	2					
13. Chicago	287	287	41	212	13	64	155	32	23	16	5	24	16		3	11			1	1	
14. St. Louis	77	77	10	60	1	27	41	9	14	4	1	2	2	1	3						
15. New Orleans	146	146	4	95	1	56	62	27	29	3		23	1			1					
16. Fort Worth	147	147	13	102	6	41	80	21	15	2	1	13	7	1	2	3	1				1
17. Kansas City	200	200	21	124	3	121	44	49	65	9	4	19	4	1	3	1			1		
18. Minneapolis	119	119	20	75	2	50	48	33	13	9	3	3	7		1	2					
19. Seattle	155	155	13	118	1	51	58	26	20	5	4	7	3		1	1					
20. San Francisco	249	249	16	181	3	147	77	48	95	5	1	10	8		2	2				1	
21. Los Angeles	406	406	44	170	5	171	120	129	28	11	8	80	19	2	6	3					
22. Denver	110	110	9	75	3	33	60	23	10	2		6	6			2			1		
Total	4,618	4,618	543	3,012	74	1,776	2,008	954	668	183	87	370	205	7	60	54	1		6	4	2

[1] Cases in which the Board assumed original jurisdiction.

Of the 4,618 unfair labor practice cases filed with the Board during the fiscal year, 62 percent contained the charge of discrimination either for union activity, for testifying in a hearing before the Board, or for filing charges with the Board. About 38 percent of the cases included the allegation that the employer refused to bargain collectively with the representatives chosen by the workers. The charge of domination of and interference with a labor organization was made in approximately 12 percent of the cases.

It is of interest to compare these percentages with those for the preceding fiscal year. During the fiscal year ending June 30, 1938, nearly 67 percent of the unfair labor practice cases included charges of discrimination, about 38 percent contained charges of refusal to bargain collectively, and approximately 19 percent alleged domination of and interference with labor organizations.[3] There appears to have been a decrease from the preceding fiscal year, in the proportion of all cases involving charges of discrimination and also a decrease in the proportion involving "company union" charges. The proportion of cases where the charge was refusal to bargain collectively remained the same.

Unfair labor practice cases closed July 1, 1938, to June 30, 1939.—Upon the receipt of a charge the regional director conducts an investigation to determine, first, whether or not the allegations affect commerce, and second, whether or not the facts as alleged in the charge constitute unfair labor practices within the meaning of the act. If, as a result of his investigation, the regional director decides that the facts do not warrant the institution of formal proceedings, the complaining labor organization or individual is given an opportunity to withdraw the charges. If, however, the parties filing the charges do not choose to withdraw the case when informed by the regional director that, in his opinion, no further action is warranted, the director formally states that he refuses to issue a complaint. The complainants have the right of appeal to the Board from the ruling of the regional director.

During the fiscal year 1938–39, regional directors secured the withdrawal of 1,269 cases after a preliminary investigation. This constituted 30 percent of the 4,230 unfair labor practice cases closed during the period. In 539 cases, where the parties did not choose to withdraw the charges, the regional directors refused to issue complaints, i. e., the charges were dismissed. These dismissed cases represent 12.7 percent of the unfair labor practice cases disposed of during the fiscal year.

Thus 42.7 percent of all unfair labor practice cases closed during the year were closed because the Board found that these cases did not merit formal proceedings.

If the regional director finds that the facts as stated in the charge constitute a violation of the act, formal proceedings may be instituted. But in a large number of cases, compliance with the act may be brought about through the voluntary cooperation of the employer, the complainant, and the agents of the Board. In such cases no formal proceedings are instituted.

[3] Third Annual Report, p. 30.

The Board and its agents obtained compliance with the act on the basis of informal settlements in 1,990 cases, or 47 percent of all unfair labor practice cases closed by the Board during the fiscal year 1938–39. These settlements affected 203,692 workers.

In only a relatively small percentage of the unfair labor practice cases filed with the Board, does the regional director issue a formal complaint. These are cases in which the regional director decides that the allegations in the charge constitute unfair labor practices affecting commerce and finds it impossible to settle the dispute informally. The Board, through its agents, issued a total of 522 complaints during the 12 months ending June 30, 1939. This was slightly more than 8 percent of the sum of the 4,618 unfair labor practice cases filed during the year and the 1,732 unfair labor practice cases pending and still under investigation on June 30, 1938.

A total of 397 cases were closed after formal complaints were issued. A number of these, namely 127 cases, were settled, dismissed, or withdrawn before the issuance of Board decisions although in some cases hearings had been held. In 9 cases, the trial examiner dismissed the complaint, and in 26 cases the respondent agreed to comply with the recommendations of the trial examiner.

After the issuance of the trial examiner's report, a case is transferred to the Board. If the respondent does not comply with the recommendations contained in the intermediate report of the trial examiner or if exceptions are filed to his recommendations by any party to the proceedings, the case comes before the Board for decision. During the fiscal year a total of 235 cases was closed following the issuance of a Board decision either through dismissal of the entire complaint or through compliance with the Board's order.[4] Although the complaints in only 28 of the cases were dismissed in their entirety, a large number of decisions included a partial dismissal of the complaint. The large number of cases closed by compliance with Board decision is explained by the fact that although during the first 3 fiscal years many decisions resulted in compliance with the affirmative portions of the Board's decisions, the Board continued to carry the cases as pending until such time as it was felt that the effects of the unfair labor practices had been dissipated.[5] During the fiscal year 1938–39, the Board considered such cases closed and thus the number of cases closed by compliance was relatively high as compared with previous years. Although such cases are considered closed from a statistical point of view, from the legal point of view, the cease and desist orders continue in effect indefinitely.

Despite the inclusion in the data on cases closed of cases in which Board decisions had been issued in earlier years, only 5.6 percent of all unfair labor practice cases disposed of during the year were closed after formal Board decisions and orders.

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[4] For statistical purposes only, unfair labor practice cases in which decisions and orders have been issued are considered closed when compliance with the affirmative portion of the Board orders is secured. The negative portions of the orders, i. e., the cease and desist orders, remain in effect indefinitely.

[5] See footnote (4), Table I.

Table VII shows a complete break-down of the disposition of unfair labor practice cases during the fiscal year 1938–39, and in Table VIII there is presented a similar break-down by regions.

TABLE VII.—*Disposition of all unfair labor practice cases on docket July 1, 1938, to June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	2,514		35.2	705,173		51.5
Cases received July 1, 1938, to June 30, 1939	4,618		64.8	665,102		48.5
Total cases on docket	7,132		100.0	1,370,275		100.0
Cases closed before issuance of complaint:						
By settlement	1,990	47.0	27.9	203,692	45.8	14.8
By dismissal	539	12.7	7.6	35,631	8.0	2.6
By withdrawal	1,269	30.0	17.8	112,108	25.2	8.2
Otherwise	35	.8	.5	10,598	2.4	.8
Total cases closed before issuance of complaint	3,833	90.5	53.8	362,029	81.4	26.4
Cases closed after issuance of complaint:						
By settlement before hearing	29	.7	.4	4,980	1.1	.4
By settlement after hearing	53	1.3	.7	14,107	3.2	1.0
By dismissal before hearing	8	.2	.1	5,084	1.1	.4
By dismissal after hearing	12	.3	.2	3,524	.8	.3
By withdrawal before hearing	10	.2	.1	716	.2	(1)
By withdrawal after hearing	15	.4	.2	3,007	.7	.2
By intermediate report finding no violation	9	.2	.1	840	.2	.1
By compliance with intermediate report	26	.6	.4	2,983	.7	.2
By dismissal by Board decision	28	.7	.4	6,560	1.5	.5
By compliance with Board decision [2]	207	4.9	2.9	40,276	9.1	2.9
Total cases closed after issuance of complaint	397	9.5	5.5	82,077	18.6	6.0
Total cases closed July 1, 1938, to June 30, 1939	4,230	100.0		444,106	100.0	
Cases pending June 30, 1939	2,902		40.7	926,169		67.6

[1] Less than 0.05 percent.
[2] See footnote (4), Table I.

TABLE VIII.—*Disposition of unfair labor practice cases on docket during the fiscal year ending June 30, 1939, by regions*

	Number of cases on docket fiscal year 1938–1939		Disposition of cases														Total cases disposed of	Total cases pending June 30, 1939
			Before issuance of complaint				After issuance of complaint and before Board decision								After Board decision			
							Settled		Dismissed		Withdrawn		Intermediate report					
	Number	Workers involved	Settled	Dismissed	Withdrawn	Otherwise	Before hearing	After hearing	Before hearing	After hearing	Before hearing	After hearing	No violation	Compliance	Dismissed	Compliance [2]		
Board [1]	10	98,925	1		2												3	7
Region:																		
1. Boston	424	46,368	151	40	93		1							1	1	12	299	125
2. New York	1,061	184,719	310	126	172	3	7	12	6	1	9	4		8	3	32	693	368
3. Buffalo	124	45,992	27	12	18	3								2	5	4	71	53
4. Philadelphia	307	87,496	83	20	65		1	3			1	2		3	1	15	194	113
5. Baltimore	455	61,474	123	16	84	1	2	3		1		2		4	2	34	272	183
6. Pittsburgh	176	51,596	31	6	37	1	2		1	1						3	82	94
7. Detroit	248	91,617	62	28	29		2	1		2			1		1	2	128	120
8. Cleveland	224	34,015	37	10	52	3	3	2	1	1					1	5	115	109
9. Cincinnati	443	87,337	216	33	47	3	1	3				1		2		6	312	131
10. Atlanta	255	31,329	41	38	36		2	5					1		3	9	135	120
11. Indianapolis	273	45,230	64	22	73	1							2			15	177	96
12. Milwaukee	263	45,500	89	27	25	1	1						1		1	7	152	111
13. Chicago	441	102,532	133	36	78	1		2						1	1	10	262	179
14. St. Louis	125	12,501	18	8	22	7		1								5	61	64
15. New Orleans	247	14,646	50	16	67	2		3		1		2			2	8	151	96
16. Fort Worth	228	31,050	58	24	49	1		1				1	1	2		12	149	79
17. Kansas City	302	30,778	77	6	39		2	1				1		1		4	131	171
18. Minneapolis	167	17,149	67	4	35	1	2					1		1	1	2	115	52
19. Seattle	269	43,804	68	12	45	1	1	3						2		12	145	124
20. San Francisco	371	154,629	80	25	39	2										2	148	223
21. Los Angeles	543	40,027	152	24	123	3		13		2		1	1			4	323	220
22. Denver	176	11,561	52	6	39	1	2			2				1	5	4	112	64
Total	7,132	1,370,275	1,990	539	1,269	35	29	53	8	12	10	15	9	26	28	207	4,230	2,902

[1] Cases in which the Board assumed original jurisdiction.

[2] See footnote (4), Table I.

Unfair labor practice cases pending as of June 30, 1939.—At the end of the fiscal year covered by this report there were pending before the Board 2,902 unfair labor practice cases, involving 926,169 workers. R large majority of the cases, 1,701, were pending in the regional offices where investigations were being carried on to determine whether or not the facts in the charge constituted unfair labor practices within the meaning of the act. In 169 cases, complaints had been authorized but were still awaiting formal issuance. Complaints had been issued in 88 cases and these cases were awaiting the commencement of hearings. Hearings were in progress in 33 cases, and, in 179 cases, hearings had been completed but the parties were awaiting the issuance of intermediate reports. In 401 cases, intermediate reports had been issued; these cases were awaiting decision by the Board. In 331 cases the Board was awaiting compliance with its orders.

Formal action in unfair labor practice cases.—During the year, the Board instituted formal action in a relatively small proportion of the unfair labor practice cases on the docket. As pointed out previously, complaints were issued in 522 cases. Hearings were concluded in 424 cases, such hearings being conducted by trial examiners designated by the Chief Trial Examiner. Some of these cases heard were later settled, withdrawn, or dismissed before the issuance of an intermediate report by the trial examiner. The trial examiners issued intermediate reports in 371 cases. In 9 cases, they dismissed the entire complaint;[5] in 26 cases, compliance with their reports was secured. Upon the filing of exceptions to the intermediate report by either of the parties to the proceedings, the unfair labor practice case is automatically transferred to the Board. If no exceptions are filed and if there is no compliance with the intermediate report within 10 days after issuance, the case is transferred to the Board.[6] During the entire fiscal year, 397 unfair labor practice cases were transferred to the Board either upon exceptions filed to the intermediate report or upon the failure of respondents to comply with the recommendations of the trial examiners. In addition, 191 cases were transferred to the Board upon the issuance of Board orders to that effect.

The Board issued decisions in 381 unfair labor practice cases or 5.5 percent of all cases either awaiting decision on July 1, 1938, or filed during the subsequent 12 months. Of these 381 decisions, a total of 149 decisions were issued on the basis of a stipulation entered into by the interested parties.

A summary of the formal action taken by the Board during the year broken down by the regions in which such unfair labor practice cases were filed is presented in table IX.

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[5] It should be noted that frequently the trial examiner dismisses part of the complaint.

[6] Under the revised Rules and Regulations, series 2, issued July 14, 1939, unfair labor practice cases are transferred to the Board by its order issued immediately upon the receipt by the Board from the regional director of the intermediate report. (Art. II, sec. 32.)

TABLE IX.—*Formal action taken by N. L. R. B. in unfair labor practice cases on docket during fiscal year ending June 30, 1939, by regions*

	Number of cases in which—			Cases transferred to N. L. R. B. by—			Total	Number of cases decided
	Complaints were issued	Hearings were held	Intermediate reports issued	Exceptions to intermediate report	Noncompliance with intermediate report	Board order		
Board [1]								1
Region:								
1. Boston	22	13	15	17		7	24	22
2. New York	81	61	55	51	5	14	70	38
3. Buffalo	17	17	22	23		1	24	12
4. Philadelphia	29	25	20	22		14	36	21
5. Baltimore	23	7	17	16		18	34	47
6. Pittsburgh	12	6	7	7		6	13	6
7. Detroit	24	19	11	14		4	18	10
8. Cleveland	9	8	9	9		3	12	7
9. Cincinnati	11	9	10	10	1	2	13	9
10. Atlanta	35	34	31	35		10	45	20
11. Indianapolis	16	12	9	12		5	17	21
12. Milwaukee	13	6	8	10		2	12	17
13. Chicago	47	36	40	40		4	44	24
14. St. Louis	9	9	11	10		5	15	13
15. New Orleans	36	32	3	5		28	33	37
16. Fort Worth	22	24	26	30		5	35	13
17. Kansas City	16	16	16	15		7	22	12
18. Minneapolis	18	16	13	12		2	14	2
19. Seattle	19	10	10	11		13	24	14
20. San Francisco	11	23	5	5		21	26	5
21. Los Angeles	45	34	23	25		18	43	10
22. Denver	7	7	10	11	1	2	14	20
Total	522	424	371	390	7	191	538	381

[1] Cases in which the Board assumed original jurisdiction.

B. ANALYSIS OF UNFAIR LABOR PRACTICE CASES BY UNIONS FILING CHARGES

Of the 7,132 unfair labor practice cases on the docket during the fiscal year ending June 30, 1939, 2,770 were filed by unions affiliated with the American Federation of Labor, 3,442 cases by affiliates of the Congress of Industrial Organizations, 286 cases by unaffiliated unions, and 634 cases by individuals. The Board closed 62 percent of the A. F. of L. unfair labor practice cases and 55.9 percent of the C. I. O. unfair labor practice cases on the docket during this period.

A comparison of the methods by which the A. F. of L. cases and the C. I. O. cases were disposed of reveals that the Board secured settlements before formal action was instituted in 51.4 percent of the A. F. of L. cases and in 47.0 percent of the C. I. O. cases.

The regional directors refused to issue complaints in 9.8 percent of the A. F. of L. cases and secured the withdrawal of 28.9 percent of the cases involving these unions. They dismissed the complaints in 10.5 percent of the C. I. O. union cases and secured the withdrawal of 30.7 percent of them.

Eighty-eight A. F. of L. cases and 109 C. I. O. cases were closed by compliance with Board decisions during the year.

Hearings were conducted in 128 cases involving A. F. of L. affiliates and in 260 cases involving C. I. O. affiliates..

The Board issued decisions in 138 cases involving A. F. of L. affiliates. This includes decisions in 50 cases based upon stipulations. Of the C. I. O. unfair labor practice cases on the docket during the fiscal year, the Board issued decisions in 228 cases, 97 being based on stipulations. Thus, the Board issued decision in 5.1 percent of the A. F. of L. unfair labor practice cases and 6.8 percent of the C. I. O. cases on the docket awaiting decision on June 30, 1938, or under investigation during the fiscal year 1938–39.

Tables X through XIII show the disposition of unfair labor practice cases classified according to the unions filing the charges.

TABLE X.—*Disposition of unfair labor practice cases of A. F. of L. unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	875		31.6	137,637		45.5
Cases received July 1, 1938, to June 30, 1939	1,895		68.4	164,834		54.5
Total cases on docket	2,770		100.0	302,471		100.0
Cases closed before issuance of complaint:						
By settlement	882	51.4	31.9	79,585	51.7	26.3
By dismissal	168	9.8	6.1	7,393	4.8	2.4
By withdrawal	497	28.9	17.9	27,567	17.9	9.1
Otherwise	13	.8	.5	1,100	.7	.4
Total cases closed before issuance of complaint	1,560	90.9	56.4	115,645	75.1	38.2
Cases closed after issuance of complaint:						
By settlement before hearing	10	.6	.4	1,803	1.2	.6
By settlement after hearing	20	1.2	.6	10,720	7.0	3.5
By dismissal before hearing						
By dismissal after hearing	6	.3	.2	3,040	2.0	1.0
By withdrawal before hearing	.2	.1	.1	37	(1)	(1)
By withdrawal after hearing	7	.4	.3	1,544	1.0	.5
By intermediate report finding no violation	4	.2	.1	577	.4	.2
By compliance with intermediate report	12	.7	.4	777	.5	.3
By dismissal by Board decision	9	.5	.3	1,004	.7	.3
By compliance with Board decision	88	5.1	3.2	18,642	12.1	6.2
Total cases closed after issuance of complaint	158	9.1	5.6	38,144	24.9	12.6
Total cases closed July 1, 1938, to June 30, 1939	1,718	100.0		153,789	100.0	
Cases pending June 30, 1939	1,052		38.0	148,682		49.2

[1] Less than 0.05 percent.

TABLE XI.—*Disposition of unfair labor practice cases of C. I. O. unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	1,449		42.1	551,957		58.2
Cases received July 1, 1938, to June 30, 1939	1,993		57.9	396,499		41.8
Total cases on docket	3,442		100.0	948,456		100.0
Cases closed before issuance of complaint:						
By settlement	904	47.0	26.3	102,493	40.0	10.8
By dismissal	203	10.5	5.9	23,720	9.2	2.5
By withdrawal	590	30.7	17.1	77,743	30.4	8.2
Otherwise	15	.8	.4	8,793	3.4	.9
Total cases closed before issuance of complaint	1,712	89.0	49.7	212,749	83.0	22.4
Cases closed after issuance of complaint:						
By settlement before hearing	18	.9	.5	3,177	1.2	.3
By settlement after hearing	21	1.1	.6	3,370	1.3	.3
By dismissal before hearing	8	.4	.2	5,084	2.0	.5
By dismissal after hearing	6	.3	.2	484	.2	.1
By withdrawal before hearing	8	.4	.2	679	.3	.1
By withdrawal after hearing	8	.4	.2	1,463	.6	.1
By intermediate report finding no violation	5	.3	.2	263	.1	.3
By compliance with intermediate report	14	.7	.4	2,206	.9	.2
By dismissal by Board decision	15	.8	.5	5,549	2.2	.6
By compliance with Board decision	109	5.7	3.2	21,072	8.2	2.2
Total cases closed after issuance of complaint	212	11.0	6.2	43,347	17.0	4.7
Total cases closed July 1, 1938, to 30, 1939	1,924	100.0		256,096	100.0	
Cases pending June 30, 1939	1,518		44.1	692,360		72.9

TABLE XII.—*Disposition of unfair labor practice cases of unaffiliated unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	75		26.2	13,344		12.1
Cases received July 1, 1938, to June 30, 1939	211		73.8	97,339		87.9
Total cases on docket	286		100.0	110,683		100.0
Cases closed before issuance of complaint:						
By settlement	76	39.8	26.6	21,052	67.2	19.0
By dismissal	26	13.6	9.1	2,838	9.1	2.6
By withdrawal	59	30.9	20.6	6,136	19.6	5.6
Otherwise	7	3.6	2.4	705	2.2	.6
Total cases closed before issuance of complaint	168	87.9	58.7	30,731	98.1	27.8
Cases closed after issuance of complaint:						
By settlement before hearing						
By settlement after hearing	12	6.3	4.2	17	.1	0
By dismissal before hearing						
By dismissal after hearing						
By withdrawal before hearing						
By withdrawal after hearing						
By intermediate report finding no violation						
By compliance with intermediate report						
By dismissal by Board decision	3	1.6	1.1	6	(1)	(1)
By compliance with Board decision	8	4.2	2.8	552	1.8	.5
Total cases closed after issuance of complaint	23	12.1	8.1	575	1.9	.5
Total cases closed July 1, 1938, to June 30, 1939	191	100.0		31,306	100.0	
Cases pending June 30, 1939	95		33.2	79,377		71.7

[1] Less than 0.05 percent.

TABLE XIII.—*Disposition of unfair labor practice cases of individuals on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	115		18.1	2,235		25.8
Cases received July 1, 1938, to June 30, 1939	519		81.9	6,430		74.2
Total cases on docket	634		100.0	8,665		100.0
Cases closed before issuance of complaint:						
By settlement	128	32.3	20.2	562	19.3	6.5
By dismissal	142	35.8	22.4	1,680	57.6	19.4
By withdrawal	123	31.0	19.4	662	22.7	7.6
Otherwise						
Total cases closed before issuance of complaint	393	99.1	62.0	2,904	99.6	33.5
Cases closed after issuance of complaint:						
By settlement before hearing	1	.2	.2	(1)		
By settlement after hearing						
By dismissal before hearing						
By dismissal after hearing						
By withdrawal before hearing						
By withdrawal after hearing						
By intermediate report finding no violation						
By compliance with intermediate report						
By dismissal by Board decision	1	.2	.2	1	(1)	(1)
By compliance with Board decision	2	.5	.3	10	.4	.1
Total cases closed after issuance of complaint	4	.9	.7	11	.4	.1
Total cases closed July 1, 1938, to June 30, 1939	397	100.0		2,915	100.0	
Cases pending June 30, 1939	237		37.3	5,750		66.4

[1] Less than 0.05 percent.
[2] The workers in this case were counted in the representation case which was filed against the same company.

VI. REPRESENTATION CASES

A. STATISTICAL SUMMARY OF REPRESENTATION CASES

Section 9 (c) of the act provides that the Board may investigate all questions concerning the representation of employees. Such proceedings generally involve the holding of secret elections to determine representatives for the purposes of collective bargaining.

Representation cases on docket July 1, 1938, to June 30, 1939.—On June 30, 1938, there were pending before the Board and its 22 regional offices 1,264 representation cases, involving 596,988 workers.[1] These cases, which were carried over into the fiscal year 1938–39, included petitions awaiting action in the regional offices as well as petitions awaiting final disposition by formal Board decision. During the fiscal year 1938–39 labor organizations filed a total of 2,286 petitions, involving 482,182 workers. Thus, during the fiscal year the Board had before it 3,550 petitions, involving 1,079,170 workers. A large proportion of these petitions was disposed of during the fiscal year either through action by the regional offices or through Board decisions.

Representation cases closed July 1, 1938, to June 30, 1939.—Upon the filing of a petition by any labor organization, the regional director conducts an investigation to determine whether any question of representation affecting commerce has arisen within the meaning of section 9 (c) of the act.

If the regional director decides, after a preliminary investigation, that no question of representation has arisen, the petitioning labor organization is given the opportunity to withdraw its petition. Upon such request by the petitioning union, the Board issues an order permitting the withdrawal of the petition. During the fiscal year 480 such petitions were withdrawn, representing 20.5 percent of all petitions disposed of.

If the labor organization filing the petition does not choose to withdraw its petition after notification that, in the opinion of the regional director, no question of representation exists, the regional director requests the Board to issue an order dismissing the petition. During the twelve months covered by this report the Board dismissed a total of 264 representation cases, or 11.3 percent of all representation cases closed.

In a large number of cases in which the regional director finds that a question of representation has arisen, the issue has been resolved without the necessity of instituting formal proceedings. Thus, in 454 cases, or 19.4 percent, the regional director settled the issue of representation by securing the consent of all parties involved to an elec-

[1] The figures given in the Third Annual Report (ch. VI, p. 40) were 1,262 cases and 589,406 workers. The revisions were made upon the receipt of additional information from the regional offices.

tion. In 257 cases, or 11.0 percent, the negotiations for a consent election led to an admission that the petitioner actually represented the majority of the employees in the appropriate unit and thus led to recognition of such representative for the purpose of collective bargaining. Frequently, an agreement was secured between the petitioner and the employer which permitted an agent of the Board to compare the union membership cards with the pay roll of the employer in order to determine whether or not the petitioning union had been designated by the workers as their representative for the purposes of collective bargaining. The pay-roll check, as this method is generally called, was utilized in 241 cases, or 10.3 percent of the total cases closed.

In those representation cases in which the regional director, after investigation, concludes that a question of representation has arisen and in which no informal settlement can be reached among the interested parties, the Board issues an order directing the regional director to investigate the cases and to conduct hearings. At such hearings, which are conducted by trial examiners designated by the Chief Trial Examiner, evidence is obtained on the entire question of representation. Upon the conclusion of a hearing the case is transferred to the Board in Washington for disposition. Frequently, after the issuance of notice of hearing by the regional director, the question of representation may be resolved by an agreement among the interested parties, or by the dismissal or withdrawal of petitions. During the fiscal year 1938–39, a total of 45 cases were disposed of in this manner. Some cases are similarly disposed of after hearings have been conducted. Eighty-five cases were closed by this method during the year.

When a representation case is transferred to the Board for final determination, the Board may, after an examination of the evidence introduced at the hearing, certify or dismiss the petition without holding an election. Certification of unions without the holding of an election occurred in 112 cases during the fiscal year 1938–39. In these cases the Board was convinced of the fact that the union represented a majority of the workers in the appropriate unit. The Board dismissed 72 petitions without conducting an election because it was decided that no question of representation existed.

The Board, on the other hand, may direct that an election be held to determine whether or not the union represented a majority of the workers in the appropriate unit. As a result of such elections the Board issued certifications in 252 cases and dismissed the petitions in 72 cases where no union received a majority.

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Table XIV sets forth the disposition of the representation cases and table XV shows the disposition of such cases by regions.

TABLE XIV.—*Disposition of all representation cases on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	1,264		35.6	596,988		55.3
Cases received July 1, 1938 to July 1, 1939	2,286		64.4	482,182		44.7
Total cases on docket	3,550		100.0	1,079,170		100.0
Cases closed before formal action:						
By settlement:						
(a) Consent election	454	19.4	12.8	79,330	13.5	7.3
(b) Recognition of representatives	257	11.0	7.2	34,264	5.8	3.2
(c) Pay-roll check	241	10.3	6.8	23,856	4.1	2.2
By dismissal	264	11.3	7.5	81,032	13.9	7.5
By withdrawal	480	20.5	13.5	170,960	29.2	15.8
Otherwise	5	.2	.1	8,209	1.4	.8
Total cases closed before formal action	1,701	72.7	47.9	397,651	67.9	36.8
Cases closed after formal action:						
By settlement before hearing:						
(a) Consent election	6	.3	.2	1,708	.3	.2
(b) Recognition of representatives	8	.3	.2	1,324	.2	.1
(c) Pay-roll check	1	(1)	(1)	1,300	.2	.1
By settlement after hearing						
(a) Consent election	18	.8	.5	6,272	1.1	.6
(b) Recognition of representatives	2	.1	.1	3,515	.6	.3
(c) Pay-roll check	10	.4	.3	170	.3	(1)
By dismissal before hearing	5	.2	.1	558	.1	.1
By dismissal after hearing	14	.6	.4	2,153	.4	.2
By withdrawal before hearing	25	1.1	.7	4,298	.7	.4
By withdrawal after hearing	41	1.7	1.2	13,601	2.3	1.3
By certification by Board without election	112	4.8	3.2	44,622	7.6	4.1
By certification by Board after election	252	10.8	7.1	78,550	13.4	7.3
By dismissal of petition by Board without election	72	3.1	2.0	18,355	3.1	1.7
By dismissal of petition by Board after election	72	3.1	2.0	10,776	1.8	1.0
Total cases closed after formal action	638	27.3	18.0	187,202	32.1	17.4
Total cases closed July 1, 1938 to July 1, 1939	2,339	100.0		584,853	100.0	
Cases pending June 30, 1939	1,211		34.1	494,317		45.8

[1] Less than 0.05 percent.

TABLE XV.—*Disposition of representation cases on docket during the fiscal year ending June 30, 1939, by regions*

	Cases on docket, fiscal year 1938–39		Before formal action						After formal action									
			Settled						Before Board decision					After Board decision				
									Settled					Certification		Dismissed		
	Number	Workers involved	Consent election	Recognition	Pay-roll check	Dismissed	Withdrawn	Otherwise	Consent election	Recognition	Pay-roll check	Dismissed	Withdrawn	Without election	After election	Without election	After election	Total cases disposed of	Total cases pending
Board [1]	62	104,454					1							14	14	24	3	56	6
Region:																			
1. Boston	167	47,726	46	15	17	13	19		2			2	2	3	6	2	3	130	37
2. New York	581	158,777	92	53	22	58	87		9	6	1	6	24	26	30	7	7	428	153
3. Buffalo	70	27,057	7	2	9	7	9	1	1					2	5	2		45	25
4. Philadelphia	149	26,498	15	15	6	20	24				1		4	1	3	2		100	49
5. Baltimore	191	39,054	60	15	20	4	25		1	1			3	1	7	2	1	140	51
6. Pittsburgh	60	47,118	7	4	6	3	8		1					2	2		1	34	26
7. Detroit	109	166,160	6	7	2	9	16					2	1	5	2		3	53	56
8. Cleveland	96	41,908	11	11	3	11	15	2	1				1	5	6		2	68	28
9. Cincinnati	118	44,332	22	10	8	13	21			1			1	3	3	1	2	85	33
10. Atlanta	142	53,525	10	6	5	47	9		1			1		1	10	1	7	98	44
11. Indianapolis	125	42,613	24		7	11	17	1					1	4	21		3	89	36
12. Milwaukee	64	15,643	8	4	17	3	8							6	3		1	50	14
13. Chicago	143	33,582	21	8	18	9	12		2				1	10	3	1	5	90	53
14. St. Louis	61	14,114	7	3	6	1	16						1	5	1	1	1	42	19
15. New Orleans	209	29,276	10	11	19	6	23		2			4	9	1	56	23	11	175	34
16. Fort Worth	102	18,268	18	10	2	10	10		4			2	1	6	2	3	2	70	32
17. Kansas City	80	16,644	7	10	11	14	11	1						1	1			56	24
18. Minneapolis	92	18,811	22	20	15	1	7			1				2	4			72	20
19. Seattle	189	34,540	6	40	15		18					1		3	14	1		98	91
20. San Francisco	138	38,587	12	3	1	4	41						1	2	16	1	9	90	48
21. Los Angeles	555	56,600	34	9	23	11	77			1	9	1	15	7	41	1	11	240	315
22. Denver	47	3,883	9	1	9		6						1	2	2			30	17
Total	3,550	1,079,170	454	257	241	264	480	5	24	10	11	19	66	112	252	72	72	2,339	1,211

[1] Cases in which the Board assumed original jurisdiction.

Representation cases pending as of June 30, 1939.—On June 30, 1939, there were pending before the Board and its regional offices 1,211 representation cases. Of these cases, 688 were pending in the regional offices awaiting preliminary investigation. Forty-two cases were awaiting the issuance of a notice of hearing, the next step after the issuance of an order by the Board directing the regional director to conduct an investigation and hearing. An additional 41 cases were awaiting the commencement of a hearing, all parties having received notices of it. Some 7 cases were in process of hearing and in 282 cases hearings had been concluded and the cases transferred to the Board for decision. Finally, in 151 cases the Board had directed that elections be held and was awaiting the final results before determining whether or not the union should be certified.

Formal action in representation cases.—The Board instituted formal proceedings, i. e., issued notices of hearing, in 581 representation cases during the year. This figure represents about 18.4 percent of the sum of both the representation cases pending and under investigation on July 1, 1938, and the cases filed during the ensuing fiscal year. In 624 representation cases hearings were held during the same period. In 512 cases, the Board issued decisions after hearings. A total of 377 directions of election were issued.

The 512 cases in which decisions were issued represent about 15 per cent of the sum of both the cases either under investigation or awaiting decisions on July 1, 1938, and the cases filed during the fiscal year 1938–39.

Table XVI shows the number of cases in which formal action was instituted, the number of cases heard, the number of elections directed, and the number of decisions issued, by the regions in which the cases originated.

TABLE XVI.—*Hearings and N. L. R. B. orders and decisions in representation cases on docket during the fiscal year ending June 30, 1939, by regions*

	Number of cases in which—					Number of cases in which—			
	Notices of hearings issued	Hearings held	Elections directed	Decisions issued		Notices of hearings issued	Hearings held	Elections directed	Decisions issued
Board [1]	33	34	32	38	Region:				
Region:					13	30	26	5	19
1	18	13	11	15	14	9	10	6	10
2	98	90	46	79	15	53	110	69	93
3	15	9	3	7					
4	7	21	10	12	16	15	17	8	16
5	8	8	7	10	17	3	3	2	1
					18	15	13	3	5
6	4	5	4	4	19	29	33	21	25
7	18	17	7	13	20	16	17	15	18
8	11	9	5	8					
9	11	9	5	8	21	126	118	64	70
10	34	34	22	21	22	6	4	2	4
11	19	19	25	29	Total	581	624	377	512
12	3	5	5	7					

[1] Cases in which the Board assumed original jurisdiction.

B. ANALYSIS OF REPRESENTATION CASES BY UNIONS INVOLVED

Of the 3,550 representation cases on the docket during the fiscal year 1938–39, 1,406 petitions were filed by A. F. of L. affiliates, 1,583 petitions by C. I. O. unions, and 561 petitions by unaffiliated

unions. In the last group are included petitions filed by individuals which are, for statistical purposes, included in the unaffiliated unions' figures since it may be assumed that many, if not all, of these petitions actually represented informal employee committees which are, in effect, unaffiliated labor organizations.

The Board, during the year, closed 65.9 percent of the A. F. of L. and 68.0 percent of the C. I. O. representation cases on the docket.

Comparing the methods by which the A. F. of L. and the C. I. O. petitions were disposed of, it is found that 47.9 percent of the A. F. of L. petitions and 40.0 percent of the C. I. O. petitions were disposed of by settlement without recourse to formal action.

The Board issued orders dismissing the petitions in 16.2 percent of the A. F. of L. cases and permitted A. F. of L. unions to withdraw their petitions in 17.8 percent of the cases. It dismissed 2.8 percent of the C. I. O. petitions and permitted C. I. O. unions to withdraw petitions in 21.3 percent of the cases.

The Board issued certifications in 79 A. F. of L. representation cases, or 8.5 percent of all the A. F. of L. cases closed. In 44 of of these cases, the certifications were granted on the basis of evidence introduced at the hearings; in 35 cases they were based on elections conducted by the Board. The Board issued certifications in 245 C. I. O. representation cases, or 22.7 percent of all C. I. O. cases. This figure includes 65 certifications without elections and 180 certifications after elections.[2] The Board dismissed 47 A. F. of L. petitions, or 5.1 percent of all petitions filed by A. F. of L. unions and 80 C. I. O. petitions, or 7.4 percent of all petitions filed by C. I. O. unions.

Hearings were conducted on 114 petitions filed by A. F. of L. unions and on 374 petitions filed by C. I. O. unions. These figures represent 8.8 and 27.8 percent, respectively, of the representation cases on docket of each of these labor organizations excluding those cases which were pending on June 30, 1938, and in which hearings had already been conducted.

Decisions were issued by the Board in 158 A. F. of L. representation cases, and in 376 C. I. O. cases, or in 11.6 and 24.6 percent, respectively, of the A. F. of L. and C. I. O. representation cases awaiting decision on July 1, 1938, or filed during the subsequent 12-month period.

Tables XVII through XIX show the disposition of representation cases on the docket during the fiscal year 1938–39, filed by A. F. of L. unions, C. I. O. unions, and unaffiliated unions, respectively.

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[2] In a large number of cases where the petitions were filed by C. I. O. unions, the A. F. of L. affiliates were certified.

TABLE XVII.—*Disposition of representation cases of A. F. L. unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	307		21.8	72,815		32.2
Cases received July 1, 1938, to July 1, 1939	1,099		78.2	153,102		67.8
Total cases on docket	1,406		100.0	225,917		100.0
Cases closed before formal action:						
By settlement:						
(a) Consent election	209	22.6	14.9	30,032	21.3	13.3
(b) Recognition of representatives	120	12.9	8.5	15,358	10.9	6.8
(c) Pay-roll check	115	12.4	8.2	11,379	8.1	5.0
By dismissal	150	16.2	10.7	30,812	21.8	13.6
By withdrawal	165	17.8	11.7	17,330	12.3	7.7
Otherwise	2	.2	.1	609	.4	.3
Total cases **closed** before formal action	761	82.1	54.1	105,520	74.8	46.7
Cases closed after formal action:						
By settlement before hearing:						
(a) Consent election	1	.1	.1	28	(1)	(1)
(b) Recognition of representatives	4	.4	.3	851	.6	.4
(c) Pay-roll check						
By settlement after hearing						
(a) Consent election	7	.8	.5	965	.7	.4
(b) Recognition of representatives						
(c) Pay-roll check	1	.1	.1	25	(1)	(1)
By dismissal before hearing	4	.4	.3	393	.3	.2
By dismissal after hearing	3	.3	.2	354	.3	.2
By withdrawal before hearing	10	1.1	.7	2,258	1.6	1.0
By withdrawal after hearing	10	1.1	.7	642	.4	.3
By certification by Board without election	44	4.7	3.1	7,277	5.1	3.2
By certification by Board after election	35	3.8	2.5	11,416	8.1	5.1
By dismissal of petition by Board without election	33	3.6	2.3	7,922	5.6	3.5
By dismissal of petition by Board after election	14	1.5	1.0	3,469	2.5	1.5
Total cases closed after formal action	166	17.9	11.8	35,600	25.2	15.8
Total cases closed July 1, 1938, to July 1, 1939	927	100.0		141,120	100.0	
Cases pending June 30, 1939	479		34.1	84,797		37.5

[1] Less than 0.05 percent.

TABLE XVIII.—*Disposition of representation cases of C. I. O. unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers in cases on docket
Cases pending June 30, 1938	674		42.6	415,258		66.4
Cases received July 1, 1938 to July 1, 1939	909		57.4	209,707		33.6
Total cases on docket	1,583		100.0	624,965		100.0
Cases closed before formal action:						
By settlement:						
(a) Consent election	200	18.6	12.6	38,115	11.3	6.1
(b) Recognition of representatives	123	11.4	7.8	17,796	5.3	2.8
(c) Payroll check	108	10.0	6.8	11,124	3.3	1.8
By dismissal	30	2.8	1.9	4,135	1.2	.7
By withdrawal	229	21.3	14.4	132,685	39.4	21.2
Otherwise	1	.1	.1	600	.2	.1
Total cases closed before formal action	691	64.2	43.6	204,455	60.7	32.7
Cases closed after formal action:						
By settlement before hearing:						
(a) Consent election	3	.3	.2	1,330	.4	.2
(b) Recognition of representatives	2	.2	.1	87	(1)	(1)
(c) Payroll check	1	.1	.1	1,300	.4	.2
By settlement after hearing						
(a) Consent election	9	.8	.6	5,198	1.5	.8
(b) Recognition of representatives	2	.2	.1	3,515	1.0	.6
(c) Payroll check						
By dismissal before hearing	1	.1	.1	165	(1)	(1)
By dismissal after hearing	11	1.0	.7	1,799	.5	.3
By withdrawal before hearing	14	1.3	.9	1,865	.6	.3
By withdrawal after hearing	18	1.7	1.1	8,735	2.6	1.4
By certification by Board without election	65	6.0	4.1	35,733	10.6	5.7
By certification by Board after election	180	16.7	11.3	62,364	18.6	10.0
By dismissal of petition by Board without election	36	3.3	2.3	4,308	1.3	.7
By dismissal of petition by Board after election	44	4.1	2.8	6,228	1.8	1.0
Total cases closed after formal action	386	35.8	24.4	132,627	39.3	21.2
Total cases closed July 1, 1938 to July 1, 1939	1,077	100.0		337,082	100.0	
Cases pending June 30, 1939	506		32.0	287,883		46.1

[1] Less than 0.05 percent.

TABLE XIX.—*Disposition of representation cases of unaffiliated unions on docket during the fiscal year ending June 30, 1939*

	Number of cases	Percentage of—		Number of workers involved	Percentage of—	
		Total cases closed	Total cases on docket		Total number of workers involved in cases closed	Total number of workers involved in cases on docket
Cases pending June 30, 1938	283		50.4	108,915		47.7
Cases received July 1, 1938, to June 30, 1939	278		49.6	119,373		52.3
Total cases on docket	561		100.0	228,288		100.0
Cases closed before formal action:						
By settlement:						
(*a*) Consent election	45	13.4	8.0	11,183	10.5	4.9
(*b*) Recognition of representatives	14	4.2	2.5	1,110	1.0	.5
(*c*) Pay-roll check	18	5.4	3.2	1,353	1.3	.6
By dismissal	84	25.1	15.0	46,085	43.2	20.2
By withdrawal	86	25.6	15.3	20,945	19.6	9.2
Otherwise	2	.6	.4	7,000	6.6	3.0
Total cases closed before formal action	249	74.3	44.4	87,676	82.2	38.4
Cases closed after formal action:						
By settlement before hearing:						
(*a*) Consent election	2	.6	.4	350	.3	.1
(*b*) Recognition of representatives	2	.6	.4	386	.3	.2
(*c*) Pay-roll check						
By settlement after hearing:						
(*a*) Consent election	2	.6	.4	109	.1	(1)
(*b*) Recognition of representatives						
(*c*) Pay-roll check	9	2.7	1.6	145	.2	.1
By dismissal before hearing						
By dismissal after hearing						
By withdrawal before hearing	1	.3	.1	175	.2	.1
By withdrawal after hearing	13	3.9	2.3	4,224	4.0	1.8
By certification by Board without election	3	.9	.5	1,612	1.5	.7
By certification by Board after election	37	11.0	6.6	4,770	4.5	2.1
By dismissal of petition by Board without election	3	.9	.5	6,125	5.7	2.7
By dismissal of petition by Board after election	14	4.2	2.5	1,079	1.0	.5
Total cases closed after formal action	86	25.7	15.3	18,975	17.8	8.3
Total cases closed July 1, 1938, to June 30, 1939	335	100.0		106,651	100.0	
Cases pending June 30, 1939	226		40.3	121,637		53.3

[1] Less than 0.05 percent.

C. ELECTIONS CONDUCTED BY THE BOARD

Number of elections and votes cast.—During the fiscal year ending June 30, 1939, the Board, through its agents, conducted 746 elections.[3] Four hundred eighty-one of these, or 64.5 percent, were held with the consent of all parties involved in the question of representation. The remaining 265 elections, or 35.5 percent, were conducted pursuant to Board order.

About 207,597 workers were eligible to participate in these elections and 181,090 workers cast their ballots. The fact that nearly 88 percent of the eligible voters cast their ballots in the elections is an indication of the keen interest shown by workers in the choice of labor organizations which are to represent them in collective bargaining. Such participation also reflects the approval by the workers of the democratic device of the secret ballot.

The great majority of petitions for investigation and certification of representatives were made by unions affiliated either with the American Federation of Labor and or with the Congress of Industrial Organizations. These petitions represented nearly every industry and every national or international union in the United States.

Of the 181,090 votes cast, a total of 3,875 votes were either challenged or considered void. Of the remaining 177,215 valid votes cast, 68.6 percent were cast in favor of trade unions affiliated with either the A. F. of L. or C. I. O., 9.3 percent were cast in favor of unaffiliated unions, and 22.1 percent were cast against all labor organizations. Included in the latter category were 5,098 votes cast "for neither" union when two or more labor organizations appeared on the ballot.

Labor organizations which were affiliated either with the A. F. of L. or the C. I. O. won 522 of the 746 elections. Unaffiliated national unions won 21 elections and unaffiliated local unions were successful in 31 elections.[4] The number of elections lost by all types of labor organizations was 172, which includes 15 elections which resulted in tie votes.

Methods of conducting the elections were usually shaped to meet the needs of individual cases. In consent elections, an attempt was made to secure an agreement regarding all the details of the election. In this manner, the parties determined the proper bargaining unit, the form of ballot, the polling place, the time of the election, the eligibility list, the method of tallying, and other similar details. In those cases where elections were directed by the Board, the Board decided what the bargaining unit should be and usually directed that employees on the payroll on a certain date should be eligible to vote. The regional director in whose region the case originated was empowered by the Board's direction of election to conduct the election and to arrange the necessary details.

In almost all cases, election notices were posted and distributed several days before the date of the election. These notices contained

[3] Excluded from these figures were 16 elections which were conducted by the Board but which were for various reasons considered void by the Board.
[4] See table XX for definitions.

full details about the election; they gave the time and the place of polling, the purpose of the election, and usually included a sample copy of the ballot to be used. This enabled the employees to become familiar with the procedure to be followed and avoided much confusion and delay at the polling places. Usually, each party had watchers and tellers present at the polling places, and these representatives signed certificates before the ballots were counted stating that the elections were conducted properly and fairly. This had the effect of eliminating many objections regarding the conduct of the elections which, although without merit, might otherwise have been made by the losing party. They were particularly useful in the case of consent elections.

Table XX gives the break-down of elections conducted by the Board by regions.

TABLE XX.—*Elections conducted by the National Labor Relations Board during the fiscal year ending June 30, 1939, by regions*

	Number of elections			Number of employees		Valid votes cast[1]						Percentage of valid votes cast			Number of elections won			Number of elections lost by all unions[6]
	Total	Consent	Ordered	Eligible to vote	Voting	Total	For trade unions	For unaffiliated unions		Against all unions	For neither[4]	For trade unions	For unaffiliated unions	Against all unions[5]	By trade unions	By unaffiliated unions		
								National[2]	Local[3]							National	Local	
Region:																		
1. Boston	54	46	8	16,206	14,429	14,197	7,754	951	1,014	4,418	60	54.6	13.9	31.5	28	6	3	17
2. New York	134	104	30	46,063	30,340	38,535	25,389	1,279	4,201	5,797	1,869	65.9	14.2	19.9	79	6	14	35
3. Buffalo	11	8	3	1,593	1,500	1,463	826	155	276	157	49	56.4	29.5	14.1	9	1	1	--
4. Philadelphia	26	17	9	8,836	7,934	7,771	6,023	125	298	777	548	77.5	5.4	17.1	18	1	1	6
5. Baltimore	72	65	7	18,011	16,498	16,250	10,694	216	1,276	3,736	328	65.8	9.2	25.0	55	1	4	12
6. Pittsburgh	9	8	1	2,345	2,166	2,155	1,311	275	89	454	26	60.8	16.9	22.3	7	--	1	1
7. Detroit	9	4	5	6,924	6,233	6,083	4,674	343	--	466	600	76.8	5.7	17.5	6	--	--	3
8. Cleveland	19	11	8	8,824	6,860	6,770	4,922	297	530	976	45	72.7	12.2	15.1	12	--	3	4
9. Cincinnati	27	22	5	8,623	8,090	7,792	4,067	--	677	2,974	74	52.2	8.7	39.1	19	--	1	7
10. Atlanta	27	10	17	11,824	10,770	10,638	7,086	537	174	2,743	98	66.6	6.7	26.7	17	--	--	10
11. Indianapolis	34	25	9	6,855	5,579	5,483	3,421	1,530	92	309	131	62.4	29.6	8.0	29	1	--	4
12. Milwaukee	13	8	5	1,804	1,476	1,380	861	--	--	496	23	62.4	.0	37.6	9	--	--	4
13. Chicago	33	25	8	10,955	9,273	8,749	6,553	114	390	1,314	378	74.9	5.8	19.3	18	--	1	14
14. St. Louis	14	12	2	2,510	2,289	2,252	1,495	--	--	757	--	66.4	.0	33.6	12	--	--	2
15. New Orleans	80	12	68	11,414	9,184	9,083	8,131	43	--	811	98	89.5	.5	10.0	64	--	--	16
16. Fort Worth	29	25	4	7,794	7,251	7,203	4,672	14	32	2,444	41	64.9	.6	34.5	22	1	--	6
17. Kansas City	9	8	1	1,458	1,193	1,175	807	68	40	219	41	68.7	9.2	22.1	5	--	1	3
18. Minneapolis	24	22	2	5,966	5,406	5,363	3,630	--	719	982	32	67.7	13.4	18.9	21	--	1	2
19. Seattle	29	7	22	8,872	8,167	7,974	7,590	22	--	230	132	95.2	.3	4.5	26	1	--	2
20. San Francisco	29	12	17	8,883	7,270	6,928	4,326	364	97	1,809	242	62.4	6.7	30.9	18	1	--	10
21. Los Angeles	52	22	30	8,683	7,168	7,020	5,674	66	35	986	259	80.8	1.5	17.7	41	1	--	10
22. Denver	12	8	4	3,154	3,014	2,951	1,737	25	25	1,140	24	58.9	1.7	39.4	7	1	--	4
Total	746	481	265	207,597	181,090	177,215	121,643	6,424	9,965	34,085	5,098	68.6	9.3	22.1	522	21	31	172

[1] Valid votes cast include all votes cast less blank, void, and challenged.
[2] Unaffiliated unions which represent more than one plant or company.
[3] Unaffiliated unions which represent one plant or company.
[4] I. e., votes cast for neither labor organization when more than one labor organization appears on the ballot.
[5] Includes votes cast "for neither."
[6] Includes elections which resulted in a tie vote.

Labor organizations involved in elections.—Table XXI shows the number of elections won and lost by the various types of labor organizations, as well as the number of times each type of labor organization appeared on the ballot during the fiscal year 1938–39.

A. F. of L. unions won 58.2 percent of the 450 elections in which they appeared on the ballot. C. I. O. affiliates were successful in 53.4 percent of the 487 elections in which they participated. Unaffiliated national unions and unaffiliated local unions were successful in securing the majority of the votes in 31.3 percent and 50.8 percent, respectively, of the elections in which they participated.

Affiliates of the C. I. O. were involved most often in Board elections, appearing in 65.3 percent of the total elections. A. F. of L. affiliates participated in 60.4 percent of the Board's elections. Unaffiliated national unions were involved in 8.8 percent of the elections, and unaffiliated local unions in 8.2 percent.

In 213 elections, in which 54,613 valid votes were cast, unions affiliated with the A. F. of L. and affiliates of the C. I. O. appeared on the same ballot. Such elections represented about 29 percent of the 746 elections held during the year and nearly 31 percent of all valid votes cast in the 746 elections were cast in them. In these 213 elections, an A. F. of L. union was chosen by a majority of workers in 109 elections, a C. I. O. union was chosen in 76 elections, and in 28 contests, neither union was selected. In two of these elections in which the A. F. of L. and the C. I. O. were participants and were not selected, a third union was selected.

TABLE XXI.—*Number of elections won and lost and participation by labor organizations in elections conducted by the N. L. R. B., during the fiscal year ending June 30, 1939* [1]

	Total appearances on ballot		Won				Lost			
			Elections		Valid votes cast		Elections		Valid votes cast	
	Number	Valid votes cast	Number	Percent of appearances	Number	Percent of total cast	Number	Percent of appearances	Number	Percent of total cast
Unions affiliated with A. F. of L.	450	46,331	262	58.2	32,438	70.0	188	41.8	13,893	30.0
Unions affiliated with C. I. O.	487	75,312	260	53.4	54,441	72.3	227	46.6	20,871	27.7
Unaffiliated national unions	67	6,424	21	31.3	3,781	58.9	46	68.7	2,643	41.1
Unaffiliated local unions	61	9,965	31	50.8	4,138	41.5	30	49.2	5,827	58.5

[1] This table includes only those elections which were won by some form of labor organization.

D. CERTIFICATION OF REPRESENTATIVES AS BONA FIDE UNDER THE FAIR LABOR STANDARDS ACT OF 1938

The Fair Labor Standards Act of 1938 provides in section 7 (b) for an exemption to employers from the 44-hour week:

(1) In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand hours during any period of twenty-six weeks.

(2) On an annual basis in pursuance of an agreement with his employees made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that the employee shall not be employed more than two thousand hours during any period of fifty-two consecutive weeks.

The Board has, during the fiscal year 1938–39, certified labor organizations in those instances (1) where the labor organization had previously been certified by the Board pursuant to section 9 of the National Labor Relations Act; (2) where the labor organization is an affiliate of an international or parent organization which has been certified by the Board under section 9 of the National Labor Relations Act; (3) where another local of the same international or parent organization to which the applicant is affiliated has been certified by the Board.

Up to June 30, 1939, the Board had received a total of 124 such requests, of which 113 resulted in certification. Five requests had been denied, and six were still pending on June 30, 1939.

Of the 124 requests for certification as bona fide, 102 were received from A. F. of L. unions; 99 of these requests resulted in certifications. The remaining three were pending on June 30, 1939. C. I. O. affiliates filed a total of 13 requests, 12 of which resulted in certifications and one of which was pending. Nine requests for certification as bona fide were made by unaffiliated unions. Two unaffiliated unions were certified, five were denied certification, and two requests awaited final disposition on June 30, 1939.

VII. PRINCIPLES ESTABLISHED

In our previous annual reports we have outlined the important principles enunciated by the Board during the first 3 years of our existence.[1] No attempt will be made in this chapter to repeat that material. While referring on occasion to decisions discussed in our previous annual reports, we shall devote this chapter to the discussion of new principles which have been enunciated by the Board in its decisions issued from July 1, 1938, through June 30, 1939,[2] and the elaboration and extension during this period of the principles already laid down by the Board.

For convenience the chapter has been divided into nine sections:

A. Interference, restraint, and coercion in the exercise of the rights guaranteed in section 7 of the act: This section deals with cases arising under section 8 (1) of the act.

B. Encouragement or discouragement of membership in a labor organization by discrimination: This section deals with cases arising under section 8 (3) of the act.

C. Collective bargaining: This section deals with cases arising under section 8 (5) of the act.

D. Domination and interference with the formation or administration of a labor organization and contribution of financial or other support to it: This section deals with cases arising under section 8 (2) of the act.

E. Investigation and certification of representatives: This section deals with proceedings arising under section 9 (c) of the act. Such proceedings normally include the taking of secret ballots to determine representatives for the purpose of collective bargaining.

F. Adequate proof of majority representation where no election is held: This section deals with proof of majority under section 8 (5) and section 9 (c) where no election is held.

G. The unit appropriate for the purposes of collective bargaining: This section is devoted to a discussion of the principles developed by the Board pursuant to its power under section 9 (b) of the act to determine the appropriate unit for collective bargaining. The question of the appropriate unit is an issue in cases arising both under section 8 (5) and section 9 (c) of the act.

H. Remedies: This section deals with the remedies which the Board has applied, pursuant to section 10 (c) of the act, in cases in which it has found that employers have engaged in unfair labor practices.

I. Miscellaneous: This section deals with several problems involving pleading, practice, and procedure before the Board.

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[1] The First Annual Report deals with all decisions issued up to June 30, 1936, reported in 1 N. L. R. B.; the Second Annual Report deals with all decisions issued up to June 30, 1937, reported in 1 and 2 N. L. R. B., the Third Annual Report deals with all decisions issued from July 1, 1937, to June 30, 1938, and reported in 3 to 7 N. L. R. B., inclusive.

[2] The decisions issued by the Board during this period are reported in 8 through 12 N. L. R. B. and the first half of 13 N. L. R. B.

A. INTERFERENCE, RESTRAINT, AND COERCION IN THE EXERCISE OF THE RIGHTS GUARANTEED IN SECTION 7 OF THE ACT

Section 7 of the Act provides that—

> Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

Section 8 (1) of the Act makes it an unfair labor practice for an employer to—

> interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

As stated in the Third Annual Report [3] the Board has consistently held that a violation by an employer of any of the four subdivisions of section 8 other than subdivision (1) is also a violation of subdivision (1). Moreover, any other employer activity which infringes upon the rights guaranteed in section 7, although not specifically described in the act, is a violation of subdivision (1). The various methods by which employers have interfered with, restrained, or coerced employees in the exercise of the rights guaranteed by the act are numerous. In our Third Annual Report, we described the more significant forms of such activities as we have dealt with them in our decisions.[4]

During the last fiscal period employers were found to have engaged in such diverse acts of coercion as the distribution of anti-union literature,[5] ordering an employee to remove a union steward button,[6] attempting to disrupt a union by arousing racial prejudice among its members,[7] keeping employees overtime to prevent their attendance at a union meeting,[8] delaying the appointment of a teacher because her husband had been active in the union,[9] refusing to renew a contract with an independent contractor because he had assisted a union,[10] and threatening employees with eviction from company-owned houses unless they severed their connection with a union.[11]

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[3] At p. 52.

[4] Pp. 51–65.

[5] *Matter of Reed and Prince Manufacturing Company* and *Steel Workers Organizing Committee of the C. I. O.*, 12 N. L. R. B. 944; *Matter of Muskin Shoe Company* and *United Shoe Workers of America*, 8 N. L. R. B. 1; *Matter of Mock-Judson-Voehringer Company of North Carolina, Incorporated*, and *American Federation of Hosiery Workers, North Carolina District*, 8 N. L. R. B. 133, enforced as mod., *N. L. R. B.* v. *Mock-Judson-Voehringer Co.*, April 28, 1939 (C. C. A. 4); *Matter of Union Drawn Steel Company et al.* and *Steel Workers Organizing Committee*, 10 N. L. R. B. 868, petition for enforcement filed on January 10, 1939 (C. C. A. 3); *Matter of Yale & Towne Manufacturing Company* and *United Electrical and Radio Workers of America, Local No. 227, C. I. O.*, 10 N. L. R. B. 1321, petition for enforcement filed on August 1, 1939 (C. C. A. 2). In each case, the circulation of antiunion literature was accompanied by other unfair labor practices and constituted part of a campaign to destroy a union and defeat its efforts at organization among the employees of the respondent. The Board has held that the preventing of such activity does not constitute an infringement upon the employer's freedom of speech because of the coercive effects of such acts upon the self-organization of employees. See *Virginian Railway Co.* v. *System Federation*, 11 F. Supp. 621, 84 F. (2d) 641 (C. C. A. 4), 300 U. S. 515; *N. L. R. B.* v. *The Falk Corporation*, 102 F. (2d) 383 (C. C. A. 7).

[6] *Matter of Armour & Company* and *Packing House Workers Organizing Committee for United Packing House Workers, Local 347*, 8 N. L. R. B. 1100, petition to review filed October 1, 1938 (C. C. A. 7).

[7] *Matter of Planters Manufacturing Company, Inc.*, and *United Veneer Box and Barrel Workers Union, C. I. O.*, 10 N. L. R. B. 735, enforced, *N. L. R. B.* v. *Planters Manufacturing Company*, 105 F. (2d) 750 (C. C. A. 4), rehearing denied August 29, 1939.

[8] *Matter of Tidewater Iron & Steel Company* and *American Federation of Labor, Passaic County, New Jersey District*, 9 N. L. R. B. 624.

[9] *Matter of West Kentucky Coal Company* and *United Mine Workers of America, District No. 23*, 10 N. L. R. B. 88, petition for enforcement filed June 21, 1939 (C. C. A. 6).

[10] Ibid.

[11] *Matter of The Good Coal Company* and *United Mine Workers of America, District 19*, 12 N. L. R. B. 136, petition for enforcement filed June 22, 1939 (C. C. A. 6).

In *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*,[12] the Board found in use a host of devices, old and new, through which the employer sought to thwart self-organization and collective bargaining. The Board, in summary, found that the respondent had engaged in violations of section 8 (1):

* * * By its espionage, shadowing, and beatings of organizers and active members of the Union; its announcements, before and after the presentation by the Union of its proposed agreement, that it would not sign any contract with the Union; its statements to its employees attempting to villify and discredit the Union; its threats to discharge union members and to close its plants before recognizing the Union, and its other threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business, and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terrorize union adherents; its donation of tear and vomiting gas to the City of Massilon; its support to the Law and Order League of Massilon and the Back-to-Work Committees in Massilon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massilon;[13] its lay-offs, discharges, and lock-out * * *

During the past year, several interesting cases have been decided which illustrate other types of employer activity which the Board has prohibited as an infringement upon the rights guaranteed in section 7. In *Matter of Harlan Fuel Company* and *United Mine Workers of America, District 19*,[14] the employer excluded union organizers from a town completely owned by it and in which all its employees resided. The employer attempted to justify this anti-union device on the ground that it had the right to exclude people from its own property. The Board held that this could not be done, since the employees, as tenants of the respondent, had a right under ordinary property law to receive visitors, and under the act to consult with union organizers. The Board stated:

In entering and passing through Yancey on their visits to the employees there residing, the union organizers were engaged in a transaction of mutual interest, the exercise by the employees of their right under the act to form and join a labor organization for the purpose of collective bargaining and other mutual aid and protection. The use made by the organizers of the customary passways, roads, and streets to reach the employees was accorded by law and could not be defeated through the simple assertion by the respondent of a landlord's interest. By forcibly preventing the organizers from coming to or remaining in Yancey, the respondent not only violated this right but engaged in an unfair labor practice * * * The rights guaranteed to employees by the act include full freedom to receive aid, advice, and information from others, concerning those rights and their enjoyment.[15]

Employers are also prohibited from interfering with employees in their selection of representatives of their own choosing. Accordingly, the Board has held it to be an unfair labor practice within section 8 (1) for an employer to interfere with an election which the Board is conducting as part of its investigation to determine a question concerning representation.[16] In *Matter of Yale & Towne Manufacturing Company* and *United Electrical and Radio Workers of America, Local*

[12] 9 N. L. R. B. 219, enforced as modified, November 8, 1939 (C. C. A. 3).
[13] The Board found that deputies of the town, led by agents of the respondent, had without provocation opened fire upon union headquarters.
[14] 8 N. L. R. B. 25.
[15] The same principle was applied in *Matter of West Kentucky Coal Company* and *United Mine Workers of America, District 23*, 10 N. L. R. B. 88, petition for enforcement filed June 21, 1939 (C. C. A. 6). Cf. *Matter of Commonwealth Telephone Company* and *Theodore R. Siplon, et al.*, 13 N. L. R. B., No. 39.
[16] *Matter of Pacific Gas and Electric Company* and *United Electrical and Radio Workers of America*, 13 N. L. R. B., No. 32.

227, C. I. O.[17] the interference consisted in the spreading by a respondent of false rumors with respect to the effectiveness of the union in winning benefits for the employees at a nearby plant, during an election in which the union was a candidate for selection as bargaining representative. The Board found that the respondent knew the report to be false and none the less further circulated it among the employees, to discredit a labor organization.

Under the circumstances of the case, however, the Board has held there was no interference with self-organization within the meaning of section 8 (1), where an employer in good faith himself conducted an election among his employees, but showed no favoritism to either of the rival organizations contesting for designation as representative.[18]

The act requires an employer to bargain collectively on request with the union designated by a majority of his employees in an appropriate unit. The Board, accordingly, has held that an employer must not defeat collective bargaining by going behind the union so designated and dealing directly with the employees who have chosen such a union as their representative. In *Matter of Williams Coal Company* and *United Mine Workers of America, District No. 23*,[19] the respondent had entered into a contract with the union but subsequently attempted to modify the terms of this contract through individual negotiations with its employees. The Board held that such activity was prohibited by the act.[20] The Board has also condemned action where an employer, in response to a request by a union committee to negotiate on a matter of hours, has conducted his own ballot among the employees as to their wishes on the question of hours,[21] and where the respondent has attempted to bargain individually with employees during a strike, called by a union chosen to represent these employees, in protest against the respondent's unfair labor practices.[22]

Similarly, the Board has pointed out the coercion involved in an employer's statement to its employees that collective bargaining will be futile, by posting a notice to the effect that the respondent would never agree to a closed shop.[23]

Nor may an employer defeat collective bargaining and self-organization by entering into individual contracts with employees whereby

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[17] 10 N. L. R. B. 1321, petition for enforcement filed on or about August 1, 1939 (C. C. A. 2).

[18] *Matter of J. Wiss & Sons Company* and *United Electrical, Radio, and Machine Workers of America*, 12 N. L. R. B. 601. In this case, however, the Board held that the election could not be considered determinative of the wishes of the employees. See *infra*, p. 75.

[19] 11 N. L. R. B. 579, petition for enforcement filed July 28, 1939 (C. C. A. 6).

[20] The Board said in this case that a breach of the contract with the union, would not, in itself, have constituted an unfair labor practice.

[21] *Matter of The Weber Dental Manufacturing Company* and *The United Electrical and Radio Workers of America*, 10 N. L. R. B. 1439.

[22] *Matter of Newark Rivet Works* and *Unity Lodge No. 420, United Electrical & Radio Workers of America, C. I. O.*, 9 N. L. R. B. 498; *Matter of Reed & Prince Manufacturing Company* and *Steel Workers Organizing Committee of the C. I. O.*, 12 N. L. R. B. 944. Cf. *Matter of The Stolle Corporation and Metal Polishers, Buffers, Platers & Helpers International Union*, 13 N. L. R. B., No. 44, where the employer confirmed its refusal to bargain with the union by entering into individual contracts with the employees.

[23] *Matter of Roberti Brothers, Inc.*, and *Furniture Workers Union, Local 1561*, 8 N. L. R. B. 925. The Board said in this case:

"Were the Act to sanction such notice by the employer, he could with equal impunity further forestall and defeat union organization by announcing to his employees that under no circumstances would he recognize seniority among his employees for the purpose of lay-offs, that under no circumstances would he consider a change in the hours of employment, that under no circumstances would he consider *any* change in any other term or condition of employment. In effect, at the outset of union organization he could discourage his employees from becoming members by warning them that any possible advantage to be derived from such membership was beyond their reach. We cannot permit the purposes of the Act to be so flouted."

the employees surrender their right to concerted economic action. In *Matter of Arcade-Sunshine Company, Inc.* and *Laundry Workers Cleaners & Dyers Union*,[24] the respondent, during a period of union organization and while the union was attempting to reach a collective bargaining agreement with the respondent, circulated among its employees a petition in which the employees pledged themselves to "remain at our post under present working conditions." The Board found that the circulation of such a petition discouraged collective action by the employees. The Board said:

> An agreement not to strike is, on its face, a limitation on the exercise of such a right—the right to engage in concerted activities. Such a limitation also interferes with the right to self-organization, since it eliminates one of the most effective methods of organization and one of the activities for which organization is designed. The limitation may be unobjectionable when reached as a result of collective bargaining with the representatives of the employees in an appropriate unit; in such case, by hypothesis, organization has been attained, and the conclusion of the agreement is itself an exercise of the right of engaging in collective activities. But imposition of such a limitation upon the individual employee may constitute not only a form of coercion resulting from the inequality of bargaining position, but also an obstruction, at the outset, to the development of effective organization, concerted activity, and collective bargaining. The threat of cessation of work is practically the only economic force available to employees to invoke in their attempt to obtain concessions from their employer. Deprived of the possibility of utilizing this economic force before collective bargaining secures such concessions, the right to organize and bargain as guaranteed by the Act becomes meaningless. Its exercise would be futile.

B. ENCOURAGEMENT OR DISCOURAGEMENT OF MEMBERSHIP IN A LABOR ORGANIZATION BY DISCRIMINATION

Section 8 (3) makes it an unfair labor practice for an employer:

> By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided*, That nothing in this act * * * or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this act as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 9 (a) in the appropriate collective bargaining unit covered by such agreement when made.[25]

As pointed out in the Third Annual Report,[26] the Board, in administering section 8 (3), has been careful not to interfere with the normal exercise of the right of the employer to select its employees or to discharge them. And conversely the Board has been equally determined not to permit in any case an unfair labor practice within the meaning of this section to go unchallenged under cover of that right. The Board has never held it to be an unfair labor practice for an employer to hire or discharge, to promote, or demote, to transfer, lay-off or reinstate, or otherwise to affect the hire or tenure of employees or their terms or conditions of employment, for asserted reasons of business, animosity, or because of sheer caprice, so long as the employer's conduct is not wholly or in part motivated by anti-union cause.

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[24] 12 N. L. R. B. 259.

[25] By section 9 (a), the representative designated by the majority of the employees in the appropriate collective bargaining unit is the exclusive representative of all the employees in such unit for the purposes of collective bargaining.

[26] At p. 65.

To be within the scope of section 8 (3) the discrimination must be with regard to "employment." [27] Accordingly, in *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*,[28] the Board found that the respondent had not violated section 8 (3) because the discrimination was in regard to a contractual relationship other than that of "employment." [29]

The concerted activity which the Board has found to be protected by section 8 (3) has taken varied forms.[30] The Board has held that section 8 (3) protects concerted activity although not specifically union activity since such discrimination discourages the formation of and membership in a labor organization.[31] Section 8 (3) also forbids discrimination because of activity in protection of a union organizer from threatened violence by a foreman,[32] and a refusal to remove, while at work, a button designating the wearer as a union officer.[33] The Board has also held that section 8 (3) covers a discriminatory refusal to reinstate an employee subsequent to the effective date of the act for union activity occurring prior thereto,[34] as well as a discharge because the employer believed, although mistakenly, that the discharged employee had engaged in union activity.[35]

In some cases, employers have contended that the actions of a discharged employee infringed some rule or regulation of the employer, or in some other manner justified the employee's discharge, without violation of the act. In *Matter of Harnischfeger Corporation* and *Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1114*,[36] the employer discharged union stewards because they led the respondent's employees in a refusal to

[27] Cf. *Matter of South Atlantic Steamship Company of Delaware* and *National Maritime Union of America*, 12 N. L. R. B. 1367, where the employer contended that sailors, whose shipping articles for a particular voyage had expired, were no longer employees and therefore not within the protection of 8 (3). The Board found that, in accordance with the usual custom, the employment relationship between the sailors and the ship owners was not terminated at the end of a particular voyage. In addition, the Board pointed out that even if the employment relationship had terminated, section 8 (3) covered discrimination as to "hire" as well as to "tenure" of employment, and would therefore be applicable despite such termination of employment. See Third Annual Report at pp. 72–73.

[28] 8 N. L. R. B. 440, enforced, *N. L. R. B.* v. *Crossett Lumber Co.*, 102 F. (2d) 1003 (C. C. A. 8).

[29] Cf. *Matter of West Kentucky Coal Company* and *United Mine Workers of America, District No. 23*, 10 N. L. R. B. 88, petition for enforcement filed May 29, 1939 (C. C. A. 6), discussed *supra*, where such discrimination was held to be a violation of section 8 (1) of the act.

[30] Cf. *Associated Press* v. *N. L. R. B.*, 301 U. S. 103, affirming 85 F. (2d) 56, enforcing *Matter of The Associated Press* and *American Newspaper Guild*, 1 N. L. R. B. 788, where the Supreme Court stated:

> The Act permits a discharge for any reason other than union activity or *agitation for collective bargaining with employers* * * *. The petitioner is at liberty, whenever occasion may arise, to exercise its undoubted right to sever his relationship for any cause that seems to it proper *save only as a punishment for, or discouragement of, such activities, as the Act declares permissible*" (italics supplied).

[31] *Matter of Stehli & Co., Inc.* and *Textile Workers Union of Lancaster, Pennsylvania and Vicinity, Local No. 183*, 11 N. L. R. B. 1297.

[32] *Matter of Mexia Textile Mills* and *Textile Workers Organizing Committee*, 11 N. L. R. B. 1167, petition to review filed May 5, 1939 (C. C. A. 5).

[33] *Matter of Armour & Company* and *Packing House Workers Organizing Committee for United Packing House Workers, Local 347*, 8 N. L. R. B. 1100, petition to review filed October 1, 1938 (C. C. A. 7).

[34] *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440, enforced, *N. L. R. B.* v. *Crossett Lumber Co.*, 102 F. (2d) 1003 (C. C. A. 8).

[35] *Matter of Hamilton-Brown Shoe Co., a Corporation* and *Local No. 125, United Shoe Workers of America, affiliated with the Committee for Industrial Organization*, 9 N. L. R. B. 1073, modified on another point and enforced in *Hamilton-Brown Shoe Company* v. *N. L. R. B.*, 104 F. (2d) 49 (C. C. A. 8). Cf. *Matter of The Good Coal Company* and *United Mine Workers of America, District 19*, 12 N. L. R. B. 136, petition for enforcement filed June 22, 1939 (C. C. A. 6).

[36] 9 N. L. R. B. 676, enforced, *N. L. R. B.* v. *Harnischfeger Corp.*, June 6, 1939 (C. C. A. 7).

work overtime in protest against the respondent's unlawful refusal to bargain collectively. The Board held that the stewards had led the employees in what was, in essence, a partial strike, that such activity was protected by the act, and that the discharges discouraged membership in a labor organization in violation of section 8 (3) of the Act.[37] In another case, the employer, after acquiring knowledge that the union planned a demonstration on Labor Day, posted a notice stating that its mine would operate on Labor Day. Despite this, the union demonstration was held according to schedule. The respondent then discharged all employees who had not reported for work on that day. The Board held that these discharges were discriminatory and an attempt to discourage concerted activities on the part of the employees, saying:

> It is well known that industry in general ceases its operations on Labor Day and that labor in general engages in special celebrations on that day. It was under these general circumstances that a majority of the employees of the respondent decided not to work on the Labor Day in question and that the respondent decided to operate its mine on that day. It is clear that the respondent and the employees each knew of the position of the other in this matter and that each party intended to adhere strictly to its position. We find that there existed as a result of these conflicting positions of the parties a current labor dispute with respect to the terms and conditions of employment.
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> Inasmuch as the failure of the men to work on Labor Day was a consequence of and in connection with the current labor dispute and since the respondent had not at the time it refused to allow the men to return to work filled their positions, the refusal constituted a discrimination against the men, within the meaning of Section 8 (3) of the Act.[38]

The Board has held that a refusal to reinstate an employee who engaged in personal invective against his employer was not discriminatory since the refusal was motivated by personal animosity. That the invective had occurred in the course of union activity was, in the Board's view, immaterial.[39]

As pointed out in the Third Annual Report,[40] in the usual case coming before the Board there is no difficulty in determining the question as to whether the employer has, in fact, discharged, laid off, or refused to hire or reinstate an employee; or in some way has affected a term or condition of his employment. In a number of cases, however, the employer's actions have been somewhat less obvious, and the determination as to whether these actions constitute discriminatory conduct within the meaning of 8 (3) is considerably more difficult. In all cases, the Board has resolved this question upon the basis of a realistic examination of the record.

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[37] The Board said in this case:
"* * * We do not * * * mean that it is unlawful for an employer to discharge an employee for *any* activity sanctioned by a union or otherwise in the nature of collective activity. The question before us is, we think, whether this particular activity was so indenfensible, under the circumstances, as to warrant the respondent, under the Act, in discharging the stewards for this type of union activity. We do not think it was."

[38] *Matter of The Good Coal Company* and *United Mine Workers of America, District 19*, 12 N. L. R. B. 136, petition for enforcement filed June 22, 1939 (C. C. A. 6). The Board held, in addition, that the discharge of employees who were away from work on Labor Day because they were ill was also discriminatory.

[39] *Matter of Trenton Mills, Inc.* and *Ralph Knox*, 12 N. L. R. B. 241. Cf. *Matter of Marathon Rubber Products Co.* and *Frank Reindl, et al.*, 10 N. L. R. B. 704 (employee had stated that employer had told a "damn lie").

[40] At p. 74.

In *Matter of Planters Manufacturing Company, Inc.* and *United Veneer, Box and Barrel Workers Union, C. I. O.*,[41] the employer, after intentionally creating the impression that an employee was discharged, did nothing to dissipate this impression. The Board stated, "We are convinced that Howard intended to create an impression in Gibbs that he would be discharged for his union membership, and Howard's tacit acquiescence in Gibbs' understanding to that effect is the same as if Howard unequivocally discharged Gibbs." In another case, the employer posted a notice that employees would be discharged unless they joined an employer-dominated union. Employees, who did not desire to join the dominated union, on reading this notice, left the plant. The Board held that the notice was tantamount to a notice of termination of employment.[42] In addition, it has been considered discriminatory within the meaning of section 8 (3), for an employer, through constant harassment and surveillance of his employees to cause them to leave the plant,[43] or for an employer to refuse protection to employees who have, because of union activities, suffered violence from their fellow employees.[44] Section 8 (3) will also cover the transfer of an employee to work in another field of an oil company, even though there is no actual demotion in position. A refusal to accept the discriminatory transfer resulted in a complete loss of employment. The Board said in this connection:

> We have heretofore held that whenever any substantial change in the status of an employee is made upon a discriminatory basis, the refusal of the employee to accept the changed status cannot be considered as a resignation from employment.[45]

Similarly, where an employee is on strike as a result of a labor dispute, an offer of reinstatement predicated upon a condition which is calculated to discourage union membership and activity constitutes a violation of section 8 (3). The Board has so held in a case where an employer conditioned reinstatement of striking employees upon their entrance into individual contracts of employment, to defeat the strike and discourage collective bargaining.[46]

A typical situation involving discrimination is that in which an employer refuses to reinstate to their former positions employees who have gone on strike in protest against the employer's unfair labor

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[41] 10 N. L. R. B. 735, enforced, *N. L. R. B.* v. *Planters Mfg. Co.*, 105 F. (2d) 750 (C. C. A. 4), rehearing denied August 29, 1939.

[42] *Matter of Hamilton-Brown Shoe Company, a Corporation* and *Local No. 125, United Shoe Workers of America, affiliated with the Committee for Industrial Organization*, 9 N. L. R. B. 1073, modified in another particular and enforced, *Hamilton-Brown Shoe Company* v. *N. L. R. B.*, 104 F. (2d) 49 (C. C. A. 8).

[43] *Matter of Sterling Corset Co., Inc. et al.* and *International Ladies' Garment Workers Union, Local 85*, 9 N. L. R. B. 858. Cf. *Matter of Chicago Apparatus Company and Federation of Architects, Engineers, Chemists and Technicians, Local 107*, 12 N. L. R. B. 1002.

[44] *Matter of Asheville Hosiery Company* and *American Federation of Hosiery Workers*, 11 N. L. R. B. 1365, petition for enforcement filed on or about June 29, 1939 (C. C. A. 4), where we said, "In the absence of such a guarantee of protection, employees are justified in not returning to work without being considered to have left the employment of the respondent upon their own volition."

[45] *Matter of Continental Oil Company* and *Oil Workers International Union*, 12 N. L. R. B. 789, petition to review filed May 25, 1939 (C. C. A. 10).

[46] *Matter of Newark Rivet Works and Unity Lodge No. 420, United Electrical & Radio Workers of America, C. I. O.*, 9 N. L. R. B., 498. Cf. *Matter of Western Felt Works, a corporation* and *Textile Workers Organizing Committee, Western Felt Local*, 10 N. L. R. B., 407, enforced, *Western Felt Works*, v. *N. L. R. B.*, March 25, 1939 (C. C. A. 7), where the Board held that a striking employee's refusal of reemployment at a lower wage was not a refusal of an offer of reinstatement. In *Matter of Stehli & Co., Inc.* and *Textile Workers Union of Lancaster, Pennsylvania, and Vicinity, Local No. 135*, 11 N. L. R. B. 1397, we stated:

> "An employee who ceases work as a consequence of unfair labor practices may refuse an offer of employment which is not substantially equivalent without impairing his right to subsequent reinstatement." See discussion *infra*, p. 97.

practices.[47] The Board has held such a refusal to constitute unlawful discrimination whether the employer hires new employees after refusing the strikers' application for reinstatement,[48] or refuses to displace strikebreakers hired prior to the strikers' application for reinstatement to fill the positions of the striking employees.[49]

In *Matter of Stehli and Co., Inc.*, and *Textile Workers Union of Lancaster, Pennsylvania and Vicinity, Local #133*,[50] the respondent induced some of the unfair labor practice strikers to return to work by promising them the better positions in the plant. Subsequently, upon the termination of the strike, the respondent refused to reinstate to their former positions 17 of the employees who had stayed out for a longer period and whose positions had been filled already with other employees. The Board said—

> the actual reason for the respondent's refusal to reinstate these 17 employees to their former positions lay in its desire to punish them for not repudiating the strike and to reward the employees who repudiated the strike in response to the respondent's offer of the best positions to employees who repudiated the strike first, thereby discouraging membership in the Union which was conducting the strike.[51]

As stated in the Third Annual Report,[52] for an employer to require membership in a labor organization as a condition of employment is ordinarily an unfair labor practice within section 8 (3). Pursuant to the proviso to section 8 (3), however, the Board has held such a condition to be privileged under the act if embodied in an agreement with an unassisted labor organization having a majority in an appropriate unit at the time of execution of the agreement. The Board has given effect to such closed-shop contracts whether written [53] or oral.[54]

C. COLLECTIVE BARGAINING

Section 8 (5) makes it an unfair labor practice for an employer to refuse to bargain collectively with the representatives of his employees subject to the provisions of section 9 (a).[55]

As stated in the Third Annual Report,[56] a refusal by an employer to enter into negotiations with the bargaining representative of his

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[47] Cf. *Black Diamond Steamship Corporation* v. *N. L. R. B.*, 94 F. (2d) 875 (C. C. A. 2), certiorari denied, 304 U. S. 579, enforcing *Matter of Black Diamond Steamship Corporation and Marine Engineers' Beneficial Association, Local No. 38*, 3 N. L. R. B. 84.

[48] *Matter of Acme Air Appliance Company, Inc.* and *Local No. 1223 of The United Electrical Radio & Machine Workers of America, C. I. O.*, 10 N. L. R. B. 1385.

[49] *Matter of McKaig-Hatch, Inc.* and *Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1139*, 10 N. L. R. B. 33. *Matter of Western Felt Works, a corporation* and *Textile Workers Organizing Committee, Western Felt Local*, 10 N. L. R. B. 407, enforced, *Western Felt Works* v. *N. L. R. B.*, March 25, 1939 (C. C. A. 7. In the former case the Board said:

"The failure of the respondent to make any displacement at the time of application and to refrain from so hiring thereafter, for no reason other than its unwillingness to do so, in effect and in result discriminated, and constituted a discrimination, concerning hire and tenure of employment against the employees who went on strike against the respondent's anti-union conduct, and in favor of employees whose position was one of sufferance, without greater right to their positions than their employer's defeasible right to employ them could afford. A preference of this character discourages union membership."

[50] 11 N. L. R. B. 1397.

[51] The Board also employed language similar to that quoted in footnote 49.

[52] At p. 88.

[53] *Matter of Aeolian-American Corporation* and *Amalgamated Piano Workers of America*, 8 N. L. R. B. 1043.

[54] *Matter of United Fruit Company* and *International Longshoremen and Warehousemen's Union, District No. 8, Local No. 901, affiliated with C. I. O.*, 12 N. L. R. B. 404.

[55] By section 9 (a) the representative designated by the majority of the employees in the appropriate collective bargaining unit is the exclusive representative of all the employees in such unit for the purposes of collective bargaining.

[56] At p. 90.

employees constitutes an infringement of section 8 (5) of the act. Such refusal may manifest itself in various forms. Thus, it is clearly a refusal to bargain where an employer responds to a union's request to bargain collectively by promoting individual contracts with his employees,[57] or where he attacks the union and attempts to undermine its majority status.[58]

In *Matter of Reed & Prince Manufacturing Company* and *Steel Workers Organizing Committee*[59] the exclusive bargaining representative of the employees called a strike to secure from the employer among other things an arbitration agreement. The respondent contended that its obligation within section 8 (5) was excused because this strike was "unlawful and illegal" under state law. The Board rejected this contention, stating:

> Nothing in the language of the Act affords any support for such a proposition. Nor would such a construction of the Act tend to effectuate its spirit or purposes. The objective of the Act is to substitute collective bargaining for industrial warfare by requiring that an employer shall bargain collectively with the freely chosen representatives of his employees. If this objective is to be achieved it is fully as important that the bargaining process be as available during the course of a strike as prior to or subsequent to a strike. And the fact that the strike may be tortious or enjoinable does not alter the situation. Were the respondent's argument to be accepted it would mean that, at the very point when an industrial controversy becomes most bitter and when the collective bargaining provisions of the Act should provide a peaceful means of settlement, those provisions are cast aside and the employer is permitted to engage in unrestricted violation thereof.

Section 8 (5), of course, does not require an employer to bargain collectively with a union which has not been designated by a majority of the employees in an appropriate unit. The Board, accordingly, has refused to find a violation of section 8 (5) unless the designated representative, on request, shows the employer that it has been thus selected. The employer, however, cannot evade its obligation to bargain collectively by failing to cooperate with the exclusive representative in making such showing.[60] Thus an employer who refused to consent to an election by the Board to determine the question of majority, but insisted instead that the union submit to him a list of its members, was held to have violated section 8 (5) of the act where, in fact, the union

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[57] *Matter of The Stolle Corporation and Metal Polishers, Buffers, Platers and Helpers International Union*, 13 N. L. R. B., No. 44; *Matter of Newark Rivet Works* and *Unity Lodge No. 420, United Electrical and Radio Workers of America, C. I. O.*, 9 N. L. R. B. 498. Cf. *Matter of Williams Coal Company* and *United Mine Workers of America, District No. 23*, 11 N. L R. B. 579, petition for enforcement filed July 28, 1939 (C. C. A. 6), where the Board found that the respondent had engaged in unfair labor practices within the meaning of section 8 (1) of the act by attempting to modify a contract with a union through individual bargaining with its employees.

[58] *Matter of Chicago Apparatus Company* and *Federation of Architects, Engineers, Chemists and Technicians, Local 107*, 12 N. L. R. B. 1002. The Board said in this case:

"Where a labor organization representing a majority of employees in an appropriate unit seeks to bargain collectively, an employer's attempt to destroy such majority and thus to relieve himself of his obligations under Section 8 (5) of the act is as patently a refusal to bargain within the meaning of section 8 (5) as a forthright refusal to meet with representatives of a labor organization clothed with the right to exclusive recognition * * *. The respondent, in seeking to destroy the majority status of the Union, immediately following the Union's request to bargain and its asserted intention to invoke the services of the Board in demonstrating its majority, plainly showed that it was solely interested in avoiding its obligation to bargain with the Union."

[59] 12 N. L. R. B. 944. Cf. *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2), certiorari denied, 58 S. Ct. 1046, enforcing *Matter of Remington Rand, Inc.*, and *Remington Rand Joint Protective Board of the District Council Office Equipment Workers*, where the court said "* * * though the union may have misconducted itself, it has a locus poenitentiae; if it offers in good faith to treat, the employer may not refuse because of its past sins."

[60] Third Annual Report, pp. 105–6.

had been designated as bargaining agent by a majority of the employees. In this case, the union had refused to submit its membership list because of fear of discrimination by the respondent.[61] An employer was held to have fulfilled his obligation to cooperate in proving a majority where he consented to an election to be held by the Board. In this case, the union at first consented to the election but subsequently withdrew its consent, insisting that the question be determined by a check of membership cards. The employer, however, refused to agree to this change in the procedure, initially agreed upon, and was upheld in such refusal by the Board.[62] In *Matter of Stehli & Co., Inc.*, and *Textile Workers Union of Lancaster*,[63] the respondent made its consent to an election conditional upon the union's calling off a strike and, at the same time, refused to agree that it would bargain in good faith if the union won the election. The Board found that the union had been duly designated as the exclusive representative and that the respondent had engaged in unfair labor practices within section 8 (5).

In *Matter of Chicago Apparatus Company* and *Federation of Architects, Engineers, Chemists and Technicians, Local 107*[64] the union refused to consent to an election, after the respondent had engaged in unfair labor practices in an attempt to undermine the union's majority status. The respondent had previously rejected the union's suggestion that an election be employed to determine the question of majority, and had followed this refusal with a "campaign to discredit the Union." The Board found that the union had in fact been designated by a majority of the employees, and that the respondent had violated section 8 (5) of the act. The Board stated:

* * * Under ordinary circumstances, and particularly when the labor organization claiming to represent a majority of the employees is unwilling to disclose the names of its members in proof of such claim, an employer's request that the labor organization acquiesce in a consent election to demonstrate such proof is entitled to considerable weight in determining the attitude of the employer to the collective bargaining requests of a labor organization. As fully described below, however, the respondent was then in the midst of a campaign to discredit the Union among its employees. Its conduct had plainly placed in jeopardy the majority status of the Union and indicated its bad faith in making such proposal. Under the circumstances, the refusal of the Union to test its strength at that time without the full protection of the Act was not unreasonable.

As stated in *Matter of Inland Steel Company* and *Steel Workers Organizing Committee et al.*,[65] section 8 (5)

requires an employer to accept the procedure of collective bargaining in good faith, and the nature of this obligation must be determined in the light of the prevailing practice of collective bargaining and the spirit and purpose of the Act as a means of avoiding industrial strife.

In each case, the Board has examined the dealings between the parties in an effort to determine whether the employer has bargained

[61] *Matter of Hamilton-Brown Shoe Company, a corporation,* and *Local 125, United Shoe Workers of America, affiliated with the Committee for Industrial Organization,* 9 N. L. R. B. 1073, mod. in another respect and enforced. *Hamilton-Brown Shoe Co.,* v. *N. L. R. B.*, 104 F. (2d) 49 (C. C. A. 8).
[62] *Matter of Huch Leather Company* and *General C. I. O. Union,* 11 N. L. R. B. 394.
[63] 11 N. L. R. B. 1397.
[64] 12 N. L. R. B. 1002.
[65] 9 N. L. R. B. 783, petition to review filed August 30, 1939 (C. C. A. 7).

in good faith.[66] In *Matter of Denver Automobile Dealers Association, a corporation et al.* and *Capitol Automotive Lodge No. 606, International Association of Machinists*,[67] a group of respondents, after rejecting a tentative agreement reached between a union and an employer association bargaining for the respondents, entered into an agreement to forfeit $1,000 if any one of them entered into a contract with the union without the consent of the majority. The Board held that such action constituted a refusal to bargain within the meaning of secion 8 (5) since the "penalty of $1,000 was imposed as a method of precluding any bargaining with Lodge 606 upon an individual basis. Thus, the members of the Association * * * barricaded any avenues to collective bargaining which might be open to Lodge 606."

The Board has held consistently that the obligation to bargain in good faith includes the obligation to enter into a binding agreement if an understanding on terms is reached. The Supreme Court of the United States has indicated approval of this view.[68]

In *Matter of Harnischfeger Corporation* and *Amalgamated Association of Iron, Steel and Tin Workers of North America*,[69] the employer was willing to negotiate with the union, except for its refusal to enter into a collective bargaining agreement. The Board held that such conduct constituted a violation of the act, saying:

> The respondent contends that collective bargaining is in some manner different from normal business relationships, in that it does not connote the negotiation of binding agreements. It would be ridiculous for the respondent to assert, to a customer proposing to contract for a purchase of its products, that it did not see fit to make a binding commitment because it wanted to be free to alter the terms if the occasion arose. An essential purpose of collective bargaining is to stabilize labor relations, so that workers may deal as business equals with their employers as to their terms and conditions of employment. If the employer is at all times to be free to change such terms and conditions unilaterally, collective bargaining will have failed to achieve one of its fundamental aims. And it seems to us that by the plain meaning of the term "collective bargaining," a willingness to reach a bargain or binding agreement is essential if an employer is to carry out the duty imposed by the Act.

Similarly, the circumstances of the case may require an employer to embody understandings reached in a signed agreement if he is to fulfill his obligation to bargain collectively. In *Matter of Inland Steel Company* and *Steel Workers Organizing Committee, et al.*,[70] the employer during the course of negotiations with the union, stated that it would not enter into a signed agreement with the union. The Board found that, under the circumstances of the case, such a refusal

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[66] Earlier cases are collected in Third Annual Report, pp. 96–100.

[67] 10 N. L. R. B. 1173.

[68] The Supreme Court said in *Consolidated Edison Co., et al.* v. *N. L. R. B.*, 305 U. S. 197: "The Act contemplates the making of contracts with labor organizations. This is the manifest objective in providing for collective bargaining"; and in *N. L. R. B.* v. *Sands Mfg. Co.*, 306 U. S. 332, "The legislative history of the Act goes far to indicate that the purpose of the statute was to compel employers to bargain collectively with their employees to the end that employment contracts binding on both parties should be made." Cf. *Globe Cotton Mills* v. *N. L. R. B.*, 103 F. (2d) 91 (C. C. A. 5) where the Circuit Court said: "We believe there is a duty on both sides * * * to enter into discussion with an open and fair mind, and a sincere purpose to find a basis of agreement touching wages and hours and conditions of labor, and if found to embody it in a contract as specific as possible, which shall stand as a mutual guaranty of conduct, and as a guide for the adjustment of grievances."

[69] 9 N. L. R. B. 676, enforced, *N. L. R. B.* v. *Harnischfeger*, June 6, 1939 (C. C. A. 7).

[70] 9 N. L. R. B. 783, petition to review filed January 4, 1939 (C. C. A. 7).

was a violation of the employer's obligation to bargain in good faith, stating:

* * * we hold that under circumstances such as are presented here, it is the employer's obligation to accede to a request that understandings reached be embodied in a signed agreement. The present controversy is projected on the background of a long struggle by labor organizations to attain full recognition of their right to recognition as collective bargaining agencies with a dignity equal to that of the employers with whom they deal. We take judicial notice of the fact that today thousands of employers have accorded unions their right to normal contractual relationships, and that, as is shown by the record, the signed collective bargaining agreement is the prevailing practice. From the viewpoint of harmonious and cooperative labor relations, as well as of sensible business practice, the importance of embodying understandings in signed agreements is obvious. Whether there may be, in some future case, circumstances indicating that the employer there involved may under the Act decline to embody understandings in a signed agreement, we need not here decide. It is certain that we are not confronted with such circumstances in this case. To say that there is something impracticable about a signed collective bargaining agreement with a large steel manufacturing concern, justifying an exception from the general practice, would be to shut our eyes to facts of common knowledge concerning recent labor history.[71]

The Board pointed out that an employer is required to treat a union with the same dignity as it would any business concern with which it conducted business relations.

In *Matter of H. J. Heinz Company* and *Canning and Pickle Workers, Local Union No. 325, affiliated with Amalgamated Meat Cutters and Butcher Workmen of America, American Federation of Labor*,[72] the employer, after negotiating with the union, posted a statement of working conditions arrived at as a result of such negotiations, but refused to enter into a bilateral signed agreement to which the employer and the union would be parties. The Board held that such action was a refusal to bargain collectively within the meaning of section 8 (5), stating:

We take judicial notice that historically this collective agreement has normally taken the form of a written contract between the employer and the labor organization, naming the parties to the agreement and signed by the parties The obligation of the employer under Setion 8 (5) is to accept this procedure in full. The purpose of the Act is to encourage "the practice and procedure of collective bargaining" and the employer may not decline to afford its employees the full rights and advantages of collective bargaining as historically practiced.

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The record makes clear that the only reason for the respondent's refusal to accept the full procedure of collective bargaining in this case lay in its desire to deny to the Union the status and prestige to which it was entitled as the recognized party to a collective agreement.

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[71] Other cases where the Board has found that the respondent has violated the act by his refusal to enter into a written agreement with a union are: *Matter of Western Felt Works, a corporation*, and *Textile Workers Organizing Committee. Western Felt Local*, 10 N. L. R. B. 407, enforced, *Western Felt Works* v. *N. L. R. B.*, March 25, 1939, (C. C. A. 7); *Matter of Sigmund Freisinger, doing business under the name and style of North River Yarn Dyers* and *Textile Workers Organizing Committee*, 10 N. L. R. B. 1043; *Matter of Bethlehem Shipbuilding Corporation, Limited*, and *Industrial Union of Marine and Shipbuilding Workers of America, Local No. 51*, 11 N. L. R. B. 105; petition to review filed March 2, 1939 (C. C. A. 5); *Matter of Chesapeake Shoe Manufacturing Company* and *United Shoe Workers of America*, 12 N. L. R. B. 832; *Matter of Highland Park Manufacturing Co.* and *Textile Workers Organizing Committee*, 12 N. L. R. B. 1238; *Matter of Art Metal Construction Company* and *International Association of Machinists, Local 1559, affiliated with District No. 65, of the I. A. M. (A. F. of L.)*, 12 N. L. R. B. 1307, petition to review filed July 5, 1939 (C. C. A. 2). For the remedy ordered by the Board in these cases, see *infra*, pp. 102–3.

[72] 10 N. L. R. B. 963, petition to review filed January 16, 1939 (C. C. A. 6).

D. DOMINATION AND INTERFERENCE WITH THE FORMATION OR ADMINISTRATION OF A LABOR ORGANIZATION AND CONTRIBUTING FINANCIAL OR OTHER SUPPORT TO IT

Section 8 (2) of the Act makes it an unfair labor practice for an employer

> To dominate or interfere with the formation or administration of any labor organization [73] or contribute financial or other support to it.[74]

As stated in the Third Annual Report, and pursuant to the clear intent and wording of section 8 (2), the Board under this section has proscribed any form of employer participation in the formation or administration of a labor organization.[75] In determining what constitutes such employer participation, the Board has taken into consideration the fact that employers necessarily act through numerous individuals with varying degrees of authority. The Board has considered action as employer participation whether the employer acts through a chief executive or through a minor supervisory official. For example, in *Matter of Inland Steel Company* and *Steel Workers Organizing Committee et. al.*,[76] the employer argued that, in view of certain posted notices setting forth a neutral attitude toward organizational activities, it could not be held responsible for acts of its foremen promoting a labor organization. The Board, in rejecting this contention, stated:

> Foremen are company representatives as well; in fact, their acts may well have a greater effect on employees than posted generalities by high executives. If some foremen engage in discriminatory conduct, it is irrelevant that other formen or higher officials have kept aloof. The respondent is responsible for the acts of its representatives, for the effect on employees of coercive acts of foremen is telling, whether or not the acts have specific sanction from above. To remove the effect of such discriminatory tactics vigorous remedial measures, clearly brought to the attention of the employees, are obviously required.[77]

Whether or not a particular individual represents the employer must rest upon whether, under the circumstances of each case, the employer holds such individual out as a person vested with authority to invoke the employer sanctions whose operation as a motivating force in the choice of labor organizations the act seeks to prevent. In *Matter of Mohawk Carpet Mills, Inc.* and *Textile Workers Organizing Committee* [78] the Board determined that a dryer and a time clerk there involved were not supervisory employees whose acts were

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[73] By section 2 (5) of the act a "labor organization" is defined as "any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

[74] A proviso to the section reads as follows: "Provided, that subject to rules and regulations made and published by the Board pursuant to section 6 (a), an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay." The Board has not found it necessary to issue any rules or regulations on this point.

[75] At p. 109. Cf. *Matter of Continental Oil Company* and *Oil Workers International Union*, 12 N. L. R. B. 789, petition to review filed May 25, 1939 (C. C. A. 10) where the Board said: "An employer may not under the guise of advice or counsel, render assistance or aid in the formation of an organization whose purpose is that of collective bargaining with an employer. The taint of employer assistance in the process of formation will prevent the operation of such an organization as a labor organization free from employer influence. The policy of an employer in these matters must be strictly one of 'hands off.'"

[76] 9 N. L. R. B. 783, petition to review filed January 4, 1939 (C. C. A. 7).

[77] Cf. *Swift & Co.* v. *N. L. R. B.*, 106 F. (2d) 87 (C. C. A. 10) enforcing as modified, *Matter of Swift & Company* and *United Automobile Workers of America, Local No. 26516*, 7 N. L. R. B. 287.

[78] 12 N. L. R. B. 1265.

attributable to the respondent. In *Matter of General Chemical Company* and *District #50, United Mine Workers of America, Division*,[79] the Board arrived at a similar determination with respect to head operators who occasionally delivered orders of their respective foreman and assistant foremen to other employees.

The Third Annual Report discusses in detail the various types of activity which the Board considers in determining whether an employer has engaged in an unfair labor practice within the meaning of section 8 (2).[80] The Board has had occasion to consider these types of activity in numerous cases decided during the last fiscal period. Only the more interesting cases involving such activity are dealt with in this discussion.

In a number of cases, the Board had occasion to make a further study of employee representation plans in their traditional form. In *Matter of Servel, Inc.* and *United Electrical, Radio and Machine Workers of America, Local No. 1002*,[81] the Board summarized the many elements of interference, support and domination frequently contained in such a plan:

> The plan as formulated and put into operation in 1933, while affording representation for presenting employee complaints and requests to the respondent, ignored completely the broader aspects of self-organization and collective bargaining. The plan made no provision for group assemblage and meeting of employee members to discuss in a body matters affecting wages, hours, and other working conditions. It made no provision for group decision upon a course of action or for group instruction to plan leaders. On the contrary, the plan as devised foreclosed such discussion, decision, and instructions. The council functioned insulated from collective action of its constituency and attended by the management's representative. Moreover, what measure of representation the plan afforded was subject to employer restraint and control, direct and indirect. Membership, and hence representation, was an attribute of employment rooted in the respondent's will to employ, not a matter of self-organization. Councillorship was closed to non-employees and terminable by dismissal of the incumbent or his transfer to another voting group. Meetings of the council were in the presence of the management's representative. The procedure for handling employee grievances was so lengthy and involved such repeated submission to different employer representatives as to invite early capitulation. At one stage in the procedure, that involving inability of the councillor and the management's representative to settle a complaint, presentation of the grievance to the succeeding respondent's representative was to be made not by the councillor alone but by joint action of the councillor and the management's representative. Elections and council meetings were held on the respondent's property, and in other ways the operation of the plan depended upon the respondent's financial and other support. The plan could not be amended without the respondent's approval and could be terminated by its individual act. In short the plan as conceived and established by the respondent was an organization entirely its creature, capable of affording a degree of employer-controlled representation, but preventing true collective bargaining.

And in *Matter of Bethlehem Shipbuilding Corporation, Limited* and *Industrial Union of Marine and Shipbuilding Workers of America, Local No. 5*,[83] the Board described the place of the old-line employee representation plans in the history of industrial relations as follows:

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[79] 8 N. L. R. B. 269.
[80] At pp. 112–118.
[81] 11 N. L. R. B. 1295.
[82] Cf. *Matter of Newport News Shipbuilding and Drydock Company* and *Industrial Union of Marine and Shipbuilding Workers of America*, 8 N. L. R. B. 866, modified and enforced, *Newport News Shipbuilding & Drydock Company* v. *N. L. R. B.*, 101 F. (2d) 841 (C. C. A. 4) reversed and Board order enforced in full by the Supreme Court on December 4, 1939.
[83] 11 N. L. R. B. 105, petition to review filed March 2, 1939 (C. C. A. 1).

* * * The concept of industrial relations, epitomized by the "Bethlehem Plan," was the outgrowth of, and a relatively progressive departure from, the industrial ideology of an era when suppression of labor's organizational activity and of concerted employee action was the prevalent method of eliminating industrial unrest. Employers had recognized the necessity of granting employees a voice in the determination of their conditions of work, but safeguards were provided to insure the maintenance of this restricted employee participation under the direction and control management theretofore enjoyed. The Plan evolved as a method whereby the semblance of collective bargaining was vouchsafed employees without relinquishment of the ultimate control of the bargaining agency by the management. In time, the Plan became outmoded by the development of a more realistic approach to employer-employee relationships culminating in the passage of the Act. Under the Act employees are guaranteed complete freedom in the selection and control of their collective bargaining representative. For this reason the concept inherent in the Fore River and Boston Plans is repugnant to, and their formal structures proscribed by, the Act.

The section also prohibits financial support to a labor organization whether such support is contributed directly or indirectly. In a number of cases, employers have sought to disguise their unlawful support to a labor organization by contributing such support in an indirect fashion. In *Matter of Iowa Packing Company* and *United Packinghouse Workers Local Industrial Union No. 144*,[84] the respondent gave to a labor organization of its employees a canteen which the respondent had maintained for its employees. The respondent assisted the labor organization in operating the canteen but all profits from its operation were used to finance the activities of the labor organization. The Board held that this constituted financial support within section 8 (2).[85] In *Matter of Calco Chemical Company, Inc. et al.* and *Chemical Workers Local No. 20923 (A. F. L.)*,[86] the employer, under the so-called "Hamilton Plan," entered into a contract with a labor organization whereby the respondent obligated itself to compensate the labor organization for "services" rendered the respondent by the labor organization, "for the mutual benefit of the corporation and its employees." These services included publication of a newspaper or magazine, the care of ill or distressed employees, and other services "rendered to the Corporation at its request." The Board found that this plan was unlawful, stating:

The heart of the plan, and its fundamental provision, is the contribution of financial aid by the company to the Union for the performance of services at the behest of the company.

A common device for disguising unlawful interference, and continued support and domination, considered by the Board during the last fiscal period, has been the revision of admittedly company-dominated labor organizations. Shortly after the Supreme Court decision in the *Jones and Laughlin* case upholding the constitutionality of the act,[87] many employers revised or initiated revisions in admittedly company-dominated organizations purportedly to bring them within the terms of the Act. In *Matter of Bethlehem Shipbuilding Corporation, Limited* and *Industrial Union of Marine and*

[84] 11 N. L. R. B. 986.
[85] See *Matter of Clark Equipment Company* and *International Association of Machinists, Lodge 46*, 12 N. L. R. B. 1469, where a similar technique of financial support was employed.
[86] 12 N. L. R. B. 275.
[87] *N. L. R. B.* v. *Jones and Laughlin Steel Corp.*, 301 U. S. 1, reversing 83 F. (2) 998 (C. C. A. 5) and enforcing *Matter of Jones & Laughlin Steel Corporation* and *Amalgamated Association of Iron, Steel & Tin Workers of North America, Beaver Valley Lodge No. 200*, 1 N. L. R. B. 503.

Shipbuilding Workers of America, Local No. 95,[88] the only change in the new organization was the removal of financial support by the respondent. The Board held that the new organization was also company-dominated, saying:

> The mere withdrawal of financial support cannot operate to eradicate the deleterious effects of many years of employer control and legitimize the fruit of the respondent's unlawful conduct. By virtue of the Plan's structure, wherein management control is complete, by reason of the Plan's operations exhibiting the respondent's constant interference with and domination of the Plan, and because of the management's systematic propaganda extolling the virtues of the Plan and emphasizing the Plan's vital importance as an integral part of the respondent's business, the respondent has created a condition which was not substantially affected by the withdrawal of financial support. To hold otherwise would ignore the fact that the employees have been fettered by the Plan for many years.

In *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*,[89] the respondent reorganized a whole series of company-dominated organizations. The Board found that under the circumstances all of these new organizations were also company-dominated, stating of the new Plan which had been adopted at Massillon:

> Like its predecessors the Independent was dominated and controlled throughout by the respondent. It was formed on the respondent's property, received the respondent's favors, grew through the respondent's coercion. Further, even aside from actual interference by the respondent with the Independent itself, the Independent could not, in view of the circumstances under which it arose, be considered free from the respondent's influence and control. The leading figures in the Independent were a group of employees plainly under the respondent's domination and known by the employees to be so dominated. The successor to the Plan and the Association could not, by a mere change in name, be freed from the effects of the respondent's previous actions. In addition, the Independent was established under other conditions of flagrant interference with the rights of self-organization * * *. Such an organization formed in such an atmosphere, could not be considered to represent the free choice of the respondent's employees.

A pattern, typical of many cases, is that found in *Matter of Continental Oil Company* and *Oil Workers International Union*.[90] Shortly after the *Jones and Laughlin* decision the respondent announced to the officers of a labor organization admittedly under its domination and control that the act precluded its having further dealings with the organization. At the same time the respondent suggested certain revisions in the organization's constitution and by-laws assertedly so that the organization as revised could operate in compliance with the act, and assisted the officers in the preparation of the revisions. After these changes had been made, the respondent quickly granted exclusive recognition upon an unverified statement that the organization represented a majority of the employees. The relationship which had obtained between the respondent and the old admittedly company-dominated organization continued between the respondent and the organization as modified. The obvious favoritism implicit in such action was heightened by the respondent's statement to a rival affiliated labor organization that the respondent would never grant exclusive recognition to any labor organization. The Board held

[88] 11 N. L. R. B. 105, petition to review filed March 7, 1939 (C. C. A. 1).
[89] 9 N. L. R. B. 219, enforced as modified November 8, 1939 (C. C. A. 3).
[90] 12 N. L. R. B. 789, petition to review filed May 25, 1939 (C. C. A. 10).

that, under these circumstances, the newly constituted organization had been established in violation of section 8 (2) of the act.[91]

Of course a genuinely unassisted labor organization, completely different and distinct from a previously existing dominated organization, is not proscribed by the act.[92]

E. INVESTIGATION AND CERTIFICATION OF REPRESENTATIVES

Section 9 (c) of the act provides that—

> Whenever a question affecting commerce arises concerning the representation of employees, the Board may investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. In any such investigation, the Board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under section 10 or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain such representatives.

By virtue of section 9 (a) of the act, representatives designated or selected for the purposes of collective bargaining by a majority of the employees in an appropriate unit are the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. For an employer to refuse to bargain collectively with such representatives is, by virtue of section 8 (5), an unfair labor practice which the Board is empowered to prevent.

The purpose of section 9 (c) is to give the Board the necessary investigatory power to determine whether or not a majority of the employees in an appropriate unit desire a particular representative to bargain collectively for them. As stated in section 9 (c), this investigatory power may be exercised in conjunction with a proceeding under section 10 to determine whether an employer has committed an unfair labor practice, but the proceeding under section 9 (c) is separate and apart from proceedings involving unfair labor practices. Thus, a proceeding under section 9 (c) results merely in a certification that a particular representative has been chosen by a majority of the employees in an appropriate unit, if such in fact is the case, and does not result in an order requiring the employer to cease and desist from an unfair labor practice or to take any affirmative action.

An investigation under section 9 (c) involves the determination of many questions which also arise in proceedings involving unfair labor practices. The question of what constitutes an appropriate unit and the question of whether a majority of the employees in such unit have designated and selected a representative for the purposes of collective bargaining must be determined both in a proceeding under section 8 (5) and in a proceeding under section 9 (c). These problems are therefore treated separately.[93] The problem of whether or not the question concerning representation affects commerce is identical with

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[91] Cf. *Matter of Douglas Aircraft Company, Inc.* and *United Automobile Workers of America, International Union, Douglas Local No. 214*, 10 N. L. R. B. 242, petition to review filed December 21, 1938 (C. C. A. 8). See also, *Matter of Inland Steel Company* and *Steel Workers Organizing Committee, et al.*, 9 N. L. R. B. 783, petition to review filed January 4, 1934 (C. C. A. 7); *Matter of Kansas City Power & Light Company* and *International Brotherhood of Electrical Workers, Local Union B-412*, 12 N. L. R. B. 1414, petition to review filed June 10, 1939 (C. C. A. 8); *Matter of El Paso Electric Company, a corporation* and *Local Union 585, International Brotherhood of Electrical Workers*, 13 N. L. R. B., No. 28.

[92] *Matter of Wisconsin Telephone Company* and *Telephone Operators Union, Local 115–A, International Brotherhood of Electrical Workers*, 12 N. L. R. B. 375; *Matter of Mohawk Carpet Mills, Inc.* and *Textile Workers Organizing Committee*, 12 N. L. R. B. 1265.

[93] See sec. F and sec. G, *infra*, this chapter.

the problem of whether an unfair labor practice affects commerce, and is likewise treated elsewhere.[94]

1. The Existence of a Question Concerning Representation

The act seeks to encourage the practice and procedure of collective bargaining through employee representatives of their own choosing. One of the main obstacles to such collective bargaining is uncertainty or disagreement concerning who has been designated by the employees as their representatives. Section 9 (c) is designed to remove this obstacle by creating machinery for the determination of such representatives. Therefore, pursuant to the policy and provisions of the act, the Board finds that there is a question concerning representation whenever collective bargaining may be encouraged by removing this obstacle through the use of the machinery devised in section 9 (c).[95] But if the evidence fails to establish the existence of this obstacle, as in a case where the employer is willing to bargain collectively with a union and has entered into an agreement with it, in effect at the time of the Board's decision, recognizing it as the representative of the employees in an appropriate unit, there is normally no need for the use of the machinery of section 9 (c) and, accordingly, the Board finds that there is no question concerning representation.[96] Similarly, no purpose is served by proceeding under section 9 (c) where no labor organization seeks to bargain with an employer or has any present intention of doing so.[97]

Even a refusal to bargain collectively does not always indicate that a question concerning representation exists, if the obstacles to collective bargaining are not such as the act empowers the Board to remove. Thus such a question does not exist if the union whose demand has been refused has been designated as bargaining representative by none or only a few, relatively, of the employees in an appropriate unit.[98]

A question concerning representation must exist at the time of the Board's decision. In *Matter of American France Line* and *International Seamen's Union of Amer.*,[99] the Board dismissed a petition requesting an investigation and certification of representatives without prejudice to the filing of a new petition, where, because of unusual delay since the filing of the petition, there no longer was any basis for assuming that a question concerning representation, which might have existed at the time of the filing of the petition, still existed at the time of the Board's decision.

(A) THE EFFECT OF EXISTING CONTRACTS

As in previous years, a number of cases have presented the question whether an existing valid contract constitutes a bar to an investiga-

[94] See ch. VIII, post.

[95] See, for example, *Matter of George G. Averill* and *Fresh Fruit & Vegetable Workers Union, Local 78*, 13 N. L. R. B., No. 48 (employer denied that union represented majority in appropriate unit).

[96] *Matter of Century Woven Label Co.* and *Century Woven Label Union, No. 21116*, 8 N. L. R. B. 665.

[97] *Matter of J. & A. Young, Inc.* and *Rose Amanzio*, 9 N. L. R. B. 1164.

[98] *Matter of Century Woven Label Co.* and *Century Woven Label Union, No. 21116*, 8 N. L. R. B. 665.

[99] 12 N. L. R. B. 766. In this case, the petitions were filed in June 1937 and elections were held, beginning in September 1937, among the employees of all but 11 of the 52 companies involved. The Board on May 8, 1939, dismissed the petitions involving the employees of the 11 companies where no elections had been held. For a similar case, see *Matter of Int. Freighting Corp.* and *Int. Seamen's Union of Amer.*, 12 N. L. R. B. 785.

tion and certification of representatives by the Board. In *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*,[1] the Board found that a contract, which did not expire until several months after the date of the Board's decision and related to seasonal employees, did not constitute a bar to an investigation, because the current working season had nearly ended at the time of the Board's decision and the next working season would not begin until after the expiration of the contract. Similarly, a question concerning representation is not precluded by a contract which becomes inoperative before it is to terminate. Thus in *Matter of Sound Timber Co.* and *Int. Woodworkers of Amer.*,[2] the union, after the signing of a contract, became inactive and abandoned all efforts to represent the employees, all of whom became members of another union. Under such circumstances, the Board held the contract was no bar to an investigation and certification of representatives.

Similarly, to prevent undue restriction on the selection of representatives by employees, the Board has followed the principle that a contract does not constitute a bar to an investigation or certification of representatives where it covers an undue length of time and has been in effect for at least a year.[3] But in *Matter of The National Sugar Refining Co.* and *Local 1476, Sugar Refinery Workers, Int. Longshoremen's Ass'n*,[4] in the interest of the stabilization of industrial relations, the Board held that since the contract was not to last for more than a year, it did constitute a bar to an investigation and certification of representatives until such time as it was about to expire, where at the time it was signed the contracting union represented a majority of employees in an appropriate unit and no opposing union having members among the employees had given notice of its claims to the employer or the contracting union.[5]

Individual contracts of employment do not constitute any bar to an investigation and certification of representatives, since they are usually opposed to, rather than the result of, true collective bargaining and do not reflect the desires of the employees concerning representation.[6]

(B) THE EFFECT OF PRIOR ELECTIONS AND CERTIFICATES

As in the case of contracts, the Board has attempted to give all the effect possible to prior elections and certifications without thereby restricting the employees in the exercise of their right to select bargaining representatives of their own choosing. If the prior election, because of the circumstances under which it was conducted, does not

[1] 10 N. L. R. B. 1491.
[2] 8 N. L. R. B. 844.
[3] *Matter of Columbia Broadcasting System, Inc.* and *Amer. Communications Ass'n*, 8 N. L. R. B. 508 (decided July 22, 1938; contract entered into in June 1937, to expire in October 1942). In this case the Board said: "* * * we are of the opinion that it would be contrary to the policies and purposes of the act to refuse to order an election or certify representatives on the basis of a contract which has already been in effect for a period of more than a year." *Matter of M. & J. Tracy, Inc.* and *Inland Boatmen's Union*, 12 N. L. R. B. 936 (decided May 13, 1939; contract entered into in March 1937, to expire in March 1940).
[4] 10 N. L. R. B. 1410 (contract to last a year, only 6 months of which had expired at time of Board's decision). Board member Edwin S. Smith dissented from this decision on the ground that, although the contract was to last for only a year, 2 years had elapsed since the Board had held a consent election among the employees of the company, and there was evidence that the contracting union no longer represented a majority of employees.
[5] *Cf. Amer. Hair & Felt Co.* and *Jute, Hair & Felt Workers Local No. 163*, 15 N. L. R. B., No. 61 (decided September 22, 1939).
[6] *Matter of The Gates Rubber Co.* and *Denver Printing Pressmen and Assistants Union No. 40*, 8 N. L. R. B. 303.

accurately reflect the wishes of the employees, no effect can be given to it. Therefore, as pointed out in the Third Annual Report,[7] an election conducted by an employer constitutes no bar to an investigation and certification of representatives for employees.[8] Nor does an election constitute a bar if it reflects the desires of but part of the employees involved. In *Matter of Pacific Greyhound Lines* and *Amal. Ass'n of Street, Electric Railway and Motor Coach Employees of Amer.*, the Board decided that an election conducted less than a year ago by it among one group of a company's employees, which did not result in any certification of representatives, did not constitute a bar to a subsequent investigation and certification of representatives for a unit comprising all the company's employees.[9]

A consent election conducted by a regional director a short time before the filing of a petition for investigation and certification of representatives constitutes a bar to such an investigation and certification, where the evidence shows that the election was a fair and proper one conducted among employees in an appropriate bargaining unit.[10] But, as in the case of contracts lasting for over a year, the Board has decided that such a consent election, although held a short time before the filing of a petition, does not constitute a bar to an investigation by the Board if the results of another election will not be determined until a year after the results of the prior consent election have been announced.[11] Similarly, a certification of representatives issued by the Board over a year ago does not constitute any bar to a new choice of representatives by the same employees.[12]

2. Directions of Election

(A) Date on which eligibility of workers is determined

The Board has adopted no fixed rule relative to the date to be used for the determination of the eligibility of employees to vote in an election, but has considered the circumstances existing in each case and endeavored, so far as possible, to extend the privilege of voting to all persons with sufficient employee status to fall within the appropriate unit and have an interest in the selection of a bargaining representative for it.[13] Thus, as pointed out in the Third

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[7] At p. 138.

[8] *Matter of J. Wiss & Sons Co.* and *United Electrical, Radio & Machine Workers of Amer.*, 12 N. L. R. B. 601 (employer-conducted election held not unfair labor practice within the meaning of Section 8 (1) of the act, but such election and contract entered into with winning union held no bar to filing of subsequent petition for investigation and certification of representatives); *Matter of Crystal Springs Finishing Co.* and *United Textile Workers of Amer., Local No. 1044*, 12 N. L. R. B. 1291.

[9] 9 N. L. R. B. 557 (prior Board election held among 600 bus drivers, resulting in victory by a small margin for one union, but in no certification of representatives since this union had not petitioned the Board for certification in the unit which it contended was appropriate; 300 other employees of company who did not vote in election were eligible to vote in election the Board directed in instant decision).

[10] *Matter of Godchaux Sugars, Inc.* and *Sugar Mill Workers' Union*, 12 N. L. R. B. 568 (election held one week before filing of petition).

[11] *Matter of Waterman Steamship Corp.* and *Commercial Telegraphers Union*, 10 N. L. R. B. 1079 (decided January 9, 1939; consent election held from June 23, 1937, to March 11, 1938).

[12] *Matter of New York & Cuba Mail Steamship Co.* and *National Organization Masters, Mates and Pilots of Amer.*, 9 N. L. R. B. 51 (decided October 5, 1938; prior certification on August 14, 1937); *Matter of Todd-Johnson Dry Docks, Inc.* and *Industrial Union of Marine & Shipbuilding Workers of Amer., Local No. 29*, 10 N. L. R. B. 629 (decided December 14, 1938; prior "certification" by Regional Director on September 16, 1937). Cf. *Matter of Pennsylvania Greyhound Lines* and *Brotherhood of Railroad Trainmen*, 13 N. L. R. B., No. 4 (decided June 2, 1939; prior certification on September 14, 1937).

[13] See, for example, *Matter of Clinton Garment Co.* and *Int. Ladies Garment Workers Union*, 8 N. L. R. B. 775, where the Board ordered that the pay-roll period next preceding the date of the election should be used to determine eligibility to vote, because the company was a growing enterprise, constantly increasing the number of employees.

Annual Report,[14] the question of the date on which eligibility to vote is to be determined is often important in connection with seasonal, temporary, intermittent, or part-time employees. Where the Board permits such classes of employees to participate in an election, it establishes standards of eligibility to prevent their participating where their period of employment with the company has been extremely short or intermittent or has not been recent.[15]

Similarly, where the Board has directed that an election or elections be held among the employees of several employers among whom there is a constant interchange of workers, the Board has set forth standards to determine among the employees of which employer an individual employee shall vote.[16]

The Board also attempts to hold an election at a time when the balloting will accurately reflect the untrammeled desires of the employees. Consequently, if the Board has found that the employer has engaged in unfair labor practices, it usually postpones the election until some future time after its decision, when the effects of the unfair labor practices will have been dissipated;[17] but the Board will, in such cases, when requested to do so by all the parties involved, direct that an election be held forthwith.[18]

(B) GENERAL EXCEPTIONS GOVERNING ELIGIBILITY OF VOTERS

In pursuance of its policy of extending the privilege of voting to the largest number possible, consistent with the policies and purposes of the act, of persons who have sufficient employee status to fall within the appropriate unit and have an interest in the choice of a representative for collective bargaining for it, the Board has adopted the rule that all employees on the pay roll used to determine eligibility shall be entitled to vote, including employees who did not work during this pay-roll period because they were ill or on vacation or had been temporarily laid off, and including employees who have

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[14] At pp. 140–141.

[15] See, for example, *Matter of Mobile Steamship Ass'n* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1297 (longshoremen, banana handlers, and clerks, and checkers who had worked in each of any 8 weeks during a 6-month period preceding Board's decision eligible); *Matter of Aluminum Line* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1325; *Matter of Monon Stone Co.* and *Quarry Workers' Int. Union of N. Amer.*, 10 N. L. R. B. 64 (quarry employees who had worked for at least 60 days during year preceding Board's decision eligible); *Matter of KMOX Broadcasting Station* and *St. Louis Local, Amer. Federation of Radio Artists*, 10 N. L. R. B. 479 (radio artists who performed before microphone in any regular program at any of four radio stations involved at any time during 3-month period preceding Board's decision eligible); *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123 (only temporary employees who had had 6 weeks' work within a 15-week period immediately preceding date of election eligible); *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491 (fish cannery employees who had worked for 6 days during 6-month period preceding date of decision eligible); *Matter of Union Premier Food Stores, Inc.* and *United Retail & Wholesale Employees of Amer.*, 10 N. L. R. B. 370, 11 N. L. R. B. 270 (part-time employees who had worked during any part of 3 of the 4 weeks immediately preceding date of Board's decision eligible).

[16] See, for example, *Matter of Mobile Steamship Ass'n* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1297 (employee to vote with employees of company which had employed him greatest amount of time during 6-month period preceding Board's decision); *Matter of Aluminum Line* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1325; *Matter of Monon Stone Co.* and *Quarry Workers' Int. Union of N. Amer.*, 10 N. L. R. B. 64 (employee to vote with employees of company for which he had worked for longest aggregate period during year preceding Board's decision); *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491 (employee to vote with employees of company which had employed him on greatest number of days during 6-month period preceding Board's decision; where employee had worked same number of days for two or more companies, his vote to be cast with employees of company which had last employed him; all periods of time to be computed by days; number of hours of employment per day not to be considered).

[17] See Third Annual Report, p. 142.

[18] *Matter of Ward Baking Co.* and *Comm. for Industrial Organization*, 8 N. L. R. B. 558.

been temporarily laid off since this pay-roll period.[19] Employees who, since the pay-roll period used to determine eligibility, have quit or have been discharged for cause or have been permanently laid off and have no chance of reemployment lack interest in collective bargaining problems and the choice of a representative and are therefore not permitted to vote.[20] Nor are individuals who are not employees of the company involved eligible to vote.[21]

In accordance with the express provisions of section 2 (3) [22] of the act, the Board has held that striking employees retain their status as employees, are to be included in an appropriate bargaining unit, and are eligible to participate in the selection of a bargaining representative for that unit.[23] In *Matter of A. Sartorius & Co., Inc.* and *United Mine Workers of Amer. District 50, Local 12090*,[24] the petitioning union contended that persons hired during a strike to replace striking employees should be excluded from an appropriate bargaining unit and should not be permitted to participate in the selection of a bargaining representative for employees in that unit. The Board excluded the employees hired to replace the strikers from the bargaining unit, saying:

* * * by holding that individuals, who took jobs vacated by striking employees, also were eligible to participate in the selection of the bargaining representative of the employees in the appropriate unit, there resulted a situation where two individuals, with interests diametrically opposed, were, by virtue of one and the same job, entitled to participate in the selection of the bargaining representative. If those who have, during the currency of the strike, replaced the strikers are permitted to vote, and the strikers are also permitted to vote, possibly twice as many as can be employed may participate in the election. This was not the intent of Congress. Yet the intent that strikers should remain employees for the purposes of the Act is clear. By preserving to employees who go on strike their status as employees and the rights guaranteed by the Act, the Act contemplates that during the currency of the strike the employer and the striking employees may settle the strike, with the striking employees returning to their former jobs, displacing individuals hired to fill those jobs during the strike. Strikes are commonly settled in this manner. The hold of individuals who, during the currency of a strike, occupy positions vacated by striking employees is notably tenuous. To accord such individuals, while the strike is still current, a voice in the selection of the bargaining representative of the employees in the appropriate unit would be contrary to the purposes of the Act and the ends contemplated by it, since it might effectively foreclose the possibility of the settlement of the labor dispute, whether by the return of the striking employees

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[19] See, for example, *Matter of Lincoln Mills of Ala.* and *Textile Workers Organ. Comm.*, 12 N. L. R. B. 1285 (in this case the Board also directed that all employees hired since the pay-roll period should be eligible to vote since the Board had directed that a pay-roll period should be used which preceded the date of its election by 4 months) : *Matter of Port Orford Cedar Co.* and *Int. Woodworkers of Amer. Local #116*, 13 N. L. R. B., No. 31. In *Matter of Aluminum Co. of Amer.* and *Int. Union, Aluminum Workers of Amer.*, 8 N. L. R. B. 164, the Board directed that temporarily laid-off employees should be eligible to vote where the evidence showed that since they would be rehired by the company in order of their seniority, they retained an interest in working conditions at the factory. In *Matter of The Hawk and Buck Co., Inc.* and *United Garment Workers of Amer., Local No. 229*, 12 N. L. R. B. 230, the Board directed that irregular employees should be eligible to vote where the evidence showed that they would probably be rehired by the company.

[20] See, for example, the cases cited in footnote 19, *supra*, and *Matter of White River Lumber Co.* and *Sawmill and Timber Workers Union, Local No. 157*, 13 N. L. R. B., No. 30 (permanently laid-off employees not permitted to participate in election).

[21] *Matter of KMOX Broadcasting Station* and *St. Louis Local, Amer. Federation of Radio Artists*, 10 N. L. R. B. 479 (radio artists hired and paid by advertising agencies or sponsors, or who performed gratuitously and received no compensation from radio company, not eligible to vote in election held among radio artists who were paid by company).

[22] "The term 'employee' shall include any * * * individual whose work has ceased as a consequence of, or in connection with, any current labor dispute * * *."

[23] *Matter of Williams Coal Co.* and *United Mine Workers of Amer., District No. 23*, 11 N. L. R. B. 579, at pp. 651–52.

[24] 10 N. L. R. B. 493. For a similar case, see *Matter of Horace G. Prettyman* and *Int. Typographical Union*, 12 N. L. R. B. 640.

to their jobs and the displacement of the individuals occupying those jobs during the strike, or by some other settlement agreement, a possibility which the Act contemplates should not be foreclosed during the currency of the strike.

(c) THE BALLOT

The Board arranges the ballot so that employees will be free to select or to reject accurately representatives for collective bargaining. Thus the Board will not place upon the ballot the name of a union which it has found to be company-dominated.[25] Similarly, the Board will not place upon the ballot the name of a union which has no members or only a very few members, relatively, among the employees in an appropriate unit.[26] And in *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*,[27] the Board refused to place on the ballot the name of a union which stated that it believed that each labor organization should represent its own members only and that no labor organization should be certified as the exclusive bargaining agency for employees in an appropriate unit. The Board pointed out that to place the name of this union on the ballot would be a nullity, and confusing, since a vote for no exclusive bargaining representative would accomplish the same result as a vote for this union.

In one case the Board has placed upon the ballot, however, the name of a union which the Board's Trial Examiner found had been dominated by the company, where the Board itself had not yet issued its decision on the issue. The Board held that, in such a case, certification of this union would be subject to withdrawal if the Board thereafter found that the union was not a bona fide labor organization within the meaning of the act.[28]

Another example of the Board's endeavor to enable the employees to express their desires concerning a representative as accurately as possible is to be found in *Matter of Union Premier Food Stores, Inc.* and *United Retail & Wholesale Employees of Amer.*[29] There, the Board directed an election to be held among employees scattered throughout a wide geographical area. The respective jurisdictions of the locals of one of the unions involved did not include all the areas in which the election was to be held. Consequently, the Board directed that the name of the international with which the locals were affiliated, instead of the names of the locals, should be placed upon the ballot, pointing out that if the international was designated as the bargaining representative, it could determine through its own procedure what local or locals affiliated with it should effectuate the bargaining.

3. OBJECTIONS PERTAINING TO ELECTIONS

As pointed out in the Third Annual Report, the Board will not permit supervisory employees to interfere by activities before and during the election with the employees' right to select representatives of their own choosing.[30] In *Matter of Tennessee Copper Co.* and

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[25] See, for example, *Matter of Metropolitan Engineering Co.* and *Local No. 1224 of United Electrical, Radio and Machine Workers of Amer.*, 8 N. L. R. B. 670.
[26] *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123.
[27] 10 N. L. R. B. 1123.
[28] *Matter of The Western Union Telegraph Co., Inc.* and *The Commercial Telegraphers' Union*, 11 N. L. R. B. 1154.
[29] 10 N. L. R. B. 370. 11 N. L. R. B. 270.
[30] See Third Annual Report, p. 147.

A. F. of L. Federal Union No. 21164,[31] the Board set aside an election because of the activities of supervisory employees on behalf of one of two rival unions, even though some of these supervisors were members of this union. The Board, pointing out that the membership qualifications of unions were not within its control, said:[32]

* * * the Act guarantees to all employees the right to choose representatives free from interference by employers. Membership of supervisory employees in a labor organization involved in a controversy over representation cannot confer on such employees a privilege to interfere, nor can the immunity guaranteed employees by the Act be impaired or diminished by the membership rules of any labor organization. The employees' right to a choice free from employer interference is absolute. Supervisory employees, although eligible to membership in competing labor organizations, are forbidden by the Act, in their capacity as the employer's agents, to interfere in the selection of employee bargaining representatives * * *

Similarly in *Matter of Pacific Gas and Electric Co.* and *United Electrical and Radio Workers of Amer.*,[33] the Board set aside an election because of the activities of supervisory employees, despite the fact that the supervisory employees were eligible to vote in the election. The Board said:

The fact that certain supervisory employees are eligible to vote does not relieve the employer from responsibility for the acts of such supervisory employees. In the interest of a free choice of representatives, supervisory employees must be "required to abstain from active participation in a contest between labor organizations."

4. Run-Off Elections

As pointed out in the Third Annual Report[34] where two or more labor organizations claim the right to represent the employees, the Board's direction of election, in order that the employees may be free to select or reject representatives, provides that an election shall be held to determine whether the employees desire to be represented by any one of the labor organizations or by none of them. By reason of this form of ballot it may happen that a small number of votes cast for "neither" or "no" organization deprives any organization of a majority of the ballots cast. In such a case, in order to afford the majority an opportunity to unite upon a common representative, if they so desire, the Board will direct a run-off election. When only two labor organizations are involved, if the labor organization receiving the greater number of votes so requests,[35] the Board will order a run-off election to be held to determine whether or not the employees desire to be represented by that labor organization.[36] Where three or more labor organizations are involved, the Board will order successive run-off elections, eliminating from each successive election the labor organization receiving the least number of votes in the preceding ballot until either a representative is selected by a majority or a majority has signified that none of the

[31] 8 N. L. R. B. 575, 9 N. L. R. B. 117.
[32] 9 N. L. R. B. 117, at p. 119.
[33] 13 N. L. R. B., No. 32.
[34] At p. 145.
[35] In *Matter of Waggoner Refining Co., Inc.* and *Int. Ass'n of Oil Field, Gas Well and Refinery Workers of Amer.*, 8 N. L. R. B. 789, the Board refused to hold a run-off election where there were but two unions in the prior election and the union obtaining the largest number of votes in that election stated that it did not wish to take part in a run-off election.
[36] See Third Annual Report, pp. 149–150.

contesting labor organizations is desired as a representative for collective bargaining.[37]

5. CERTIFICATION FOLLOWING AN ELECTION

In certifying a labor organization as exclusive representative of employees in an appropriate bargaining unit, after an election, the Board endeavors to carry out accurately the desires of the employees, as expressed in the election. Thus the fact that one labor organization petitions for investigation and certification does not prevent the Board's certification of another labor organization which has been designated by a majority of employees in an appropriate unit. For example, the Board has certified an international union instead of one of its locals, which filed the petition, where the union so requested.[38] And where the union which the Board has certified later changes its name, the employer is not excused from bargaining with that union as the exclusive representative of employees on the ground that it is no longer the union certified by the Board, since the Board certifies a union and not a name.[39]

The Board will not issue a certification if there is a substantial doubt whether the certification will accurately reflect the present desires of the employees. In *Matter of Bamberger-Reinthal Co.* and *Int. Ladies' Garment Workers Union*,[40] following a Board election, an unusual length of time elapsed because of the objections and counter-objections filed by the unions to the conduct of the election, and the evidence indicated that the election had resulted in a tie or at the most a majority of one or two in favor of one union. The Board refused to certify any union on the basis of the election.

F. ADEQUATE PROOF OF MAJORITY REPRESENTATION WHERE NO ELECTION IS HELD

Section 9 (c) of the act empowers the Board to certify representatives with or without an election. If a labor organization can present evidence which the Board considers adequate proof that such organization represents a majority of the employees in an appropriate unit, it may be certified without the necessity of an election. Under sections 8 (5) and 9 (a) of the act, it is an unfair labor practice for an employer to refuse to bargain collectively and exclusively with representatives selected by the majority of the employees in an appropriate unit. The proof which the Board has required as to majority representation for certification without an election or for a finding of an unfair labor practice under sections 8 (5) and 9 (a) of the act has been essentially the same during the last fiscal year as has

[37] *Matter of Aluminum Co. of Amer.* and *Aluminum Employees Ass'n*, 12 N. L. R. B. 237. For a full discussion of the Board's policy with respect to run-off elections see *Matter of Coos Bay Lumber Co.* and *Lumber and Sawmill Workers Union Local 2573*, 16 N. L. R. B., No. 50, decided October 26, 1939.

[38] *Matter of Hudson Motor Car Co.* and *Local 154, Int. Union, United Automobile Workers of Amer.*, 8 N. L. R. B. 1080. In this case the Board said:

"The petition is merely the machinery which institutes the investigation; thereafter, the Board may certify whomever the investigation shows to be the selected representative." Cf. *Matter of Sound Timber Co.* and *Int. Woodworkers of Amer.*, 8 N. L. R. B. 844 (at request of union, Board certified two locals of same international as the representative of employees in one appropriate bargaining unit).

[39] *Matter of American-Hawaiian Steamship Co.* and *Gatemen, Watchmen & Miscellaneous Waterfront Workers Union, Local 38–124*, 10 N. L. R. B. 1355.

[40] 9 N. L. R. B. 1057.

been described in detail in prior Annual Reports.[41] No significant additions have been made to this material during the fiscal period covered by this report.[42]

G. THE UNIT APPROPRIATE FOR THE PURPOSES OF COLLECTIVE BARGAINING

1. In General

Section 9 (b) of the act provides that—

> The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.

Such a determination is required in two types of cases: (1) cases involving petitions for certification of representatives, pursuant to section 9 (c) of the act, and (2) cases involving charges that an employer has refused to bargain collectively with the representatives of his employees, in violation of section 8 (5) of the act. In each instance, a finding as to the appropriate unit is indispensable to the ultimate decision. A certification of representatives would be meaningless in the absence of a finding defining the unit to be represented. Similarly, a complaint alleging that an employer has refused to bargain collectively with the representatives of his employees may be sustained only if such representatives were designated by employees in a unit appropriate for the purposes of collective bargaining.

As pointed out in the Third Annual Report,[43] the complexity of modern industry, transportation, and communication, and the numerous and diverse forms which self-organization among employees can take and has taken, preclude the application of rigid rules to the determination of the unit appropriate for the purposes of collective bargaining. In attempting to ascertain the groups among which there is that mutual interest in the objects of collective bargaining which must exist in an appropriate unit, the Board takes into consideration the facts and circumstances existing in each case. Thus, the Board has refused to accept as conclusive a prior decision concerning an appropriate unit in a later proceeding involving the same employees if the desires of the employees and of the interested union or unions,

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[41] See Second Annual Report, pp. 91–93, 108–110; Third Annual Report, pp. 150–156.

[42] On July 12, 1939, the Board decided the following two significant cases. In *Matter of The Cudahy Packing Co.* and *United Packinghouse Workers of Amer., Local No. 21*, 13 N. L. R. B., No. 61, the Board pointed out that in the past it had certified representatives without an election where one of two rival unions introduced in evidence membership cards, the authenticity of which was not questioned, signed by a majority of employees in an appropriate unit, and the other union failed to produce evidence which challenged this majority. The Board said, however, that it was of the opinion that the policies of the act would best be effectuated if henceforth elections were directed in such situations to establish representatives for future bargaining purposes, if one of the parties so requested. The Board also pointed out that this policy was inapplicable to situations arising in the determination of whether or not a company had committed an unfair labor practice by refusing to bargain collectively within the meaning of section 8 (5) of the act, since there a present election would not answer the question whether or not the union at some time prior to the hearing when it had requested the company to bargain collectively represented a majority of employees. In *Matter of Armour & Co.* and *United Packinghouse Workers Local Industrial Union No. 13*, 13 N. L. R. B., No. 64, the Board, following the *Cudahy* case, directed that an election should be held, despite the fact that the only union involved introduced evidence that a majority of employees had designated it as the bargaining agent, where the company contested the union's claim and asked that an election be held. Board Member Edwin S. Smith dissented from the directions of election in the *Armour* and *Cudahy* cases on the ground that the proof of majority in each case was sufficient to warrant certification without an election.

[43] At p. 157.

or other factors, have changed in the interval between the two decisions.[44]

Following its policy of not placing a company-dominated union on the ballot,[45] the Board, in the determination of an appropriate bargaining unit, will not consider the preferences of a union which it has found to have been dominated or aided by an employer.[46]

2. Scope of the Unit; Industrial, Craft or Departmental

The Board must determine frequently whether the unit or units shall be industrial, including practically all the employees in the plant, semiindustrial, including a majority of the employees, multicraft, including several groups of skilled workers, craft, including one group of skilled workers, or some other unit, including only part of the employees.

When all the unions involved in the proceeding agree upon the appropriate unit or units or when there is only one bona fide labor organization involved, the Board examines the unit or units proposed by the union or unions in the light of the following factors: (1) the history, extent, and type of organization of the employees in the plant; (2) the history of their collective bargaining, including any contracts with their employer; (3) the history, extent, and type of organization, and the collective bargaining, of employees in other plants of the same employer, or of other employers in the same industry; (4) the skill, wages, work and working conditions of the employees; (5) the desires of the employees; (6) the eligibility of the employees for membership in the union or unions involved in the proceeding and in other labor organizations; and (7) the relationship between the unit or units proposed and the employer's organization, management and operation of the plant. Where the unit or units proposed are in accord with all or several of the above factors, or where there is no sharp conflict between the proposed unit or units and one or more of these factors, the Board usually finds such unit or units appropriate.

This principle has been applied where the employer desires a plant-wide unit and the union or unions a craft or other type of smaller unit. Thus the Board has found, as the union contended, that a craft unit of 33 of the 125 employees in the plant was appropriate,

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[44] *Matter of Hoffman Beverage Co.* and *Int. Brotherhood of Firemen and Oilers, Local No. 55*, 8 N. L. R. B. 1367 (all labor organizations involved, as well as employees, requested different appropriate units) : *Matter of Pacific Greyhound Lines* and *Amal. Ass'n of Street, Electric Railway and Motor Coach Employees of Amer.*, 9 N. L. R. B. 557 (prior decision concerning unit based solely on desires of employees: evidence indicated these desires subsequently changed) ; *Matter of R. C. A. Communications, Inc.* and *Amer. Radio Telegraphists Ass'n*, 9 N. L. R. B. 915 (in prior decision Board stated that different unit might be appropriate if wishes or extent of organization of unions subsequently changed, and such changes occurred).

[45] See, for example, *Matter of Metropolitan Engineering Co.* and *Local No. 1224 of United Electrical, Radio and Machine Workers of Amer.*, 8 N. L. R. B. 670.

[46] *Matter of The Pure Oil Co.* and *Oil Workers Int. Union, Local 265*, 8 N. L. R. B. 207, 216. In this case the Board said :

"Since we have found that the respondent dominated and interfered with the formation and administration of the Federation and contributed support thereto, the experience of the Federation in collective bargaining is not significant and cannot be accorded weight as indicative of the employees' own desires concerning the definition of a unit appropriate for the purposes of collective bargaining."

Matter of Citizens-News Co. and *Los Angeles Typographical Union, Local No. 174*, 8 N. L. R. B. 997 ; *Matter of Pittsburgh Plate Glass Co.* and *Federation of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1111, 15 N. L. R. B., No. 58 : *Matter of Kansas City Power & Light Co.* and *Local Union B-412, Int. Brotherhood of Electrical Workers*, 12 N. L. R. B. 1461. Cf. *Matter of The Serrick Corp.* and *Int. Union, United Automobile Workers of Amer., Local No. 459*, 8 N. L. R. B. 621 ; *Matter of The Western Union Co., Inc.* and *The Commercial Telegraphers' Union*, 11 N. L. R. B. 1154 ; *Matter of Wisconsin Telephone Co.* and *Telephone Operators Union, Local 115-A*, 12 N. L. R. B. 375.

where the only union at the plant had organized, bargained collectively and obtained contracts for only these 33 employees, who were in a separate department and by reason of their skill constituted a definite craft, and were the only employees in the plant eligible for membership in the union, the other employees being eligible for membership in other labor organizations.[47] Similarly, the Board has held that a unit of employees in the spinning mill, excluding employees in the hosiery mill, of a plant was an appropriate one, as the union contended, where the evidence established that the two groups of employees did entirely different work, that the only union at the plant had organized, and admitted to membership, spinners only, and that the hosiery workers were eligible for membership in another labor organization.[48] To deny the appropriateness of the units sought by the unions in the above situations would be to deny to the organized employees in the plant the benefits of the act simply because other employees had not yet organized.

The Board in several cases, in accordance with the desires of the only labor organization involved and despite the opposition of the company, has excluded from an otherwise plant-wide unit a small group of employees who by reason of their skill or work constitute an established craft, either ineligible for membership in the petitioning union, or eligible for membership in another union whose jurisdiction over these employees is conceded by the petitioning union.[49]

Despite the contention of the employer that the employees in each department constitute separate units, the Board, in accordance with

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[47] *Matter of Horace G. Prettyman* and *Int. Typographical Union,* 12 N. L. R. B. 640. Cf. *Matter of Cupples Co.* and *Matchworkers' Federal Labor Union No. 20927,* 10 N. L. R. B. 168. Here the Board found that a unit including the employees in one department only was appropriate where such employees by reason of their work constituted a separate group and were the sole employees organized by the only bona fide union at the plant and eligible for membership in it.

[48] *Matter of Richmond Hosiery Mills* and *Textile Workers Organ. Comm.,* 8 N. L. R. B. 1073.

[49] In *Matter of General Electric Co.* and *United Electrical, Radio & Machine Workers of Amer.,* 9 N. L. R. B. 1213, the Board excluded from an industrial unit truck drivers who desired to be included in the unit and who were eligible for membership in the industrial union which had at first tried to enroll them as members and in its original petition had sought to include them in the unit. The Board pointed out that the industrial union had an agreement with a craft union that it would urge truck drivers to join the craft union, and that in a recent strike of truck drivers among other companies the trucks of the company had been barred from certain areas because they had not been driven by drivers belonging to the craft union. The Board said:

"* * * it is apparent not only that little community of interest exists between the Company's * * * workers and its truck drivers, but also that the United's interest, as embodied in its agreement with the Brotherhood, in attempting to avoid the possibility of disharmony within labor's own ranks, deserves recognition."

In *Matter of Century Biscuit Co.* and *United Baking Workers,* 9 N. L. R. B. 1257, the Board excluded truck drivers from an industrial unit, although the industrial union in the past had bargained for them and obtained a contract covering them. The Board pointed out that at present none of them were members of the industrial union, toward which all had shown hostility; that their work differed from that of the other employees; and that they were eligible for membership in another union whose jurisdiction over them was acknowledged by the industrial union. Other similar cases are: *Matter of Clinton Garment Co.* and *Int. Ladies Garment Workers Union,* 8 N. L. R. B. 775 (machinists excluded, ineligible for membership); *Matter of Southport Petroleum Co.* and *Oil Workers Int. Union, Local No. 227,* 8 N. L. R. B. 792 (truck drivers excluded, ineligible for membership); *Matter of B. F. Sturtevant Co.* and *United Electrical and Radio Workers Local Industrial Union No. 248,* 8 N. L. R. B. 835 (pattern makers excluded, eligible for membership in other, craft, union); *Matter of Armour & Co.* and *Packing House Workers Organ. Comm.,* 8 N. L. R. B. 1100 (garage mechanics and helpers, and street cleaners excluded, eligible for membership in other unions); *Matter of Inland Steel Co.* and *Steel Workers Organ. Comm.,* 9 N. L. R. B. 783 (truck drivers and bricklayers excluded, eligible for membership in other, craft, unions); *Matter of Illinois Knitting Co.* and *Federal Labor Union No. 21025,* 11 N. L. R. B. 48 (machine fixers excluded where petitioning union had acknowledged jurisdiction of recognized craft union over them, which they were eligible to join); *Matter of Seymour Packing Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 176,* 12 N. L. R. B. 1098 (truck drivers excluded, eligible for membership in another labor organization); *Matter of McAdoo Sportswear Co., Inc.* and *Int. Ladies' Garment Workers Union,* 12 N. L. R. B. 1199 (machinists excluded from unit of production employees in ladies' garment industry where machinists ineligible for membership in union and traditionally not organized along with production employees in ladies' garment trades).

the wishes of the only union involved, has found that these employees constitute a single appropriate unit. Thus, the Board has designated a noncraft unit of employees in the editorial department of a newspaper, since the evidence showed sufficient relationship in the work of the employees in the unit.[50] The Board has also established a unit composed of several but not all of the departments of an employer, where such a unit existed among the employees of other employers in the same industry and the employees included in it had sufficient interdependence of interests.[51] In another case, a multicraft unit was selected by the Board, since the employees had shown their approval of such a unit and the past history of organization and bargaining had not been along strict craft lines.[52] Finally, the Board has granted an industrial unit if the only union involved desired such a unit and had bargained collectively on this basis.[53]

In certain instances where the unit proposed by the union is not in accord with the history of collective bargaining and relates to certain groups of employees who, because of their skill or work, are normally not included in or excluded from a bargaining unit, the Board has held that the desires of these employees should determine their inclusion or exclusion. Thus, when an industrial union desired to include office workers with production and maintenance employees, the Board directed a separate election to ascertain the desires of the office workers.[54] In *Matter of Hoffman Beverage Co.* and *Int. Brotherhood of Firemen and Oilers, Local No. 55*,[55] the Board had previously designated a unit comprising all the employees. Subsequently the industrial union ceded the firemen and engineers to their respective craft unions. The Board established separate units for the firemen and engineers, respectively, as there were similar units in the industry and the firemen and engineers desired such units.

The Board will not designate a unit, desired by a labor organization, which varies widely from the unit ordinarily sought by the union and has no relationship to the skill and work of the employees, or the history of collective bargaining. Thus in *Matter of El Paso Electric Co.* and *Local Union 585, Int. Brotherhood of Electrical Workers*,[56] the Board refused to establish five separate units, each covering one department, since the union desired to bargain jointly for all five departments and had bargained and obtained contracts covering all five departments as one unit. The Board

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[50] *Matter of Weekly Publications, Inc.* and *Newspaper Guild of New York*, 8 N. L. R. B. 76.
[51] *Matter of Times Publishing Co.* and *The Newspaper Guild of Detroit*, 8 N. L. R. B. 1170.
[52] *Matter of Hamilton Realty Corp.* and *Local Joint Executive Board of Hotel & Restaurant Employees Int. Alliance*, 10 N. L. R. B. 858 (Board found appropriate a unit including (1) restaurant and kitchen employees; (2) bartenders; and (3) hotel service employees; each of whom had own organization; the employees had authorized a joint board representing the three organizations to bargain collectively for them).
[53] *Matter of B. F. Sturtevant Co.* and *United Electrical and Radio Workers Local Industrial Union No. 248*, 8 N. L. R. B. 835. *Matter of The Hanson-Whitney Machine Co.* and *Int. Union, United Automobile Workers of Amer., Local No. 423*, 8 N. L. R. B. 153 (Board rejected company's contention that each of its employees was a specialist in his particular task so that the segregation of any employees into an appropriate unit was impossible).
[54] *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of America Local No. 1*, 9 N. L. R. B. 147; *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924. Cf. *Matter of Louis Weinberg Associates, Inc.* and *United Wholesale and Warehouse Employees, Local No. 65*, 13 N. L. R. B. No. 9, footnote 4, *infra*.
[55] 8 N. L. R. B. 1367. Cf. *Matter of Hamilton Realty Corp.* and *Local Joint Executive Board of Hotel & Restaurant Employees Int. Alliance*, 10 N. L. R. B. 858, footnote 52, *supra*.
[56] 13 N. L. R. B., No. 28.

pointed out that the employees in each department did not, by reason of their work, constitute a craft or functional group. In *Matter of Tovrea Packing Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 313*,[57] the petitioning union was an industrial one having jurisdiction over all employees and had sought members in all departments of the plant. The employees were not classified along craft or functional lines. The union desired to include some but not all of the departments. The Board held that this unit was inappropriate. The Board has refused also to find appropriate a unit desired by a craft union, because the unit would include only the craft workers temporarily in one department of a plant and exclude similar craft workers in other departments.[57a]

Where two or more bona fide labor organizations do not agree upon the scope of the unit, one claiming an industrial unit and another a craft unit, the Board examines the unit or units proposed by each union in the light of the various factors set forth above. In these cases during the past fiscal year, the Board, with certain exceptions hereinafter set forth, has followed the policy of permitting the employees whose inclusion in a craft unit is desired by the craft union to determine for themselves whether or not they shall constitute a separate unit. If necessary, the Board will direct elections to determine the desires of these craft employees, on the basis of which the Board subsequently issues its findings as to an appropriate bargaining unit for them.[58] This principle has also been applied

[57] 12 N. L. R. B. 1063.

[57a] *Matter of Cupples Co.* and *Matchworkers' Federal Labor Union No. 20927*, 10 N. L. R. B. 168, 192.

[58] In the following cases the Board ordered an election to be held to ascertain the desires of the craft employees concerning their forming a separate unit: *Matter of The Walworth Co.* and *Pattern Makers' Ass'n of Pittsburgh*, 8 N. L. R. B. 765 (election held among pattern makers); *Matter of Vultee Aircraft Division, Aviation Manufacturing Corp.* and *United Automobile Workers of Amer., Local 361*, 9 N. L. R. B. 32 (election held among pattern makers); *Matter of Pacific Greyhound Lines* and *Amal. Ass'n of Street, Electric Railway and Motor Coach Employees of Amer.*, 9 N. L. R. B. 557 (election held among bus drivers); *Matter of Shell Petroleum Corp.* and *Oil Workers Int. Union, Local No. 367*, 9 N. L. R. B. 831 (elections held among (1) machinists, (2) boilermakers and welders); *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924 (election held among mechanics and machinists); *Matter of Armour & Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 641*, 9 N. L. R. B. 1295 (election held among engineers, firemen, and their helpers); *Matter of Reading Transportation Co.* and *Amal. Ass'n of Street, Electric Railway, and Motor Coach Employees of Amer.*, 10 N. L. R. B. 15 (election held among bus drivers); *Matter of New York Evening Journal, Inc.* and *Newspaper Guild of New York*, 10 N. L. R. B. 197 (election held among newspaper city inspectors); *Matter of Union Premier Food Stores, Inc.* and *United Retail and Wholesale Employees of Amer.*, 10 N. L. R. B. 370. 11 N. L. R. B. 270 (elections held among (1) warehousemen, (2) meat cutters and butchers); *Matter of Bloedel-Donovan Lumber Mills* and *Int. Woodworkers of Amer., Local No. 46*, 11 N. L. R. B. 258 (election held among truck drivers, garage men, and their helpers). In the following cases where the evidence introduced at the hearing enabled the Board to ascertain the desires of the craft employees, the Board did not order an election but immediately found a craft unit, in accordance with the desires of the employees, to be an appropriate one: *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of Amer. No. 12*, 9 N. L. R. B. 147 (skilled tool, machinery, and die makers); *Matter of Harnischfeger Corp.* and *Amal. Ass'n of Iron, Steel & Tin Workers of N. Amer., Lodge 1114*, 9 N. L. R. B. 676 (operating engineers); *Matter of Shell Petroleum Corp.* and *Oil Workers Int. Union, Local No. 367*, 9 N. L. R. B. 831 (bricklayers); *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N.L. R. B. 924 (die sinkers); *Matter of Kimberly-Clark Corp.* and *Wall Paper Workers' Union*, 9 N. L. R. B. 1287 (color mixers and machine printers); *Matter of Pacific Mills* and *Dover Independent Textile Workers' Union*, 10 N. L. R. B. 26 (loomfixers); *Matter of Standard Cap & Seal Co.* and *Lodge 304, Int. Ass'n of Machinists*, 10 N. L. R. B. 466 (machinists and set-up men); *Matter of The William Powell Co.* and *Pattern Makers Ass'n*, 12 N. L. R. B. 115 (pattern makers); *Matter of Wilson Jones Co.* and *Metal Polishers, Buffers, Platers & Helpers Int. Union, Local No. 6*, 12 N. L. R. B. 1351 (tool and die makers and machinists).

In the *New York Evening Journal* case, 10 N. L. R. B. 197, *supra*, two of the three unions whose names appeared on the ballot in the separate craft election also had their names on the ballot used in the election held among the residual group of industrial employees. The board directed that in case a majority of the craft employees voted for either of these two unions and thereby indicated their desire to be included in the industrial unit,

to determine whether or not the commercial employees of a newspaper should constitute a separate bargaining unit as contended by one union which had organized them or should be grouped together with editorial employees in a single bargaining unit, as contended by another union which had thus organized employees of other newspapers. Here there existed an inter-relationship among the commercial employees due to the similar nature of their work so that they constituted a definite functional group, and at the same time their work and interests, though not entirely similar, were closely related to those of the editorial employees.[59]

In certain situations the Board has refused to find a craft unit appropriate, as requested by a union, or to order a separate election among the craft employees.[60] Thus, following its principle that the desires of the employees should be decisive, the Board has found it unnecessary to direct a separate election to ascertain these desires, if the craft union has no members among the employees claimed to constitute a separate bargaining unit and has never attempted to organize or bargain for them, and if the industrial union has organized them and has members among them. Under these circumstances, the Board has found the industrial unit to be appropriate.[61] The Board has also

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their votes should then be counted for the determination of representatives for the industrial unit as between these two unions. In the *Pacific Greyhound* case, 10 N. L. R. B. 659, *supra*, both unions involved agreed that the bus drivers of the company could constitute a separate bargaining unit, but one union desired that the bus drivers be included in a unit with other employees of the company. The Board ordered that if the latter union obtained a majority both in the election held among the bus drivers and in the election held among the residual employees, both groups should constitute one bargaining unit, but that if this union obtained a majority only among the bus drivers, the drivers alone should constitute a bargaining unit.

[59] *Matter of Milwaukee Publishing Co.* and *Milwaukee Newspaper Guild*, 10 N. L. R. B. 389. In *Matter of Boston Daily Record* and *Newspaper Guild of Boston*, 8 N. L. R. B. 694, the Board ordered an election among the editorial employees of a newspaper to determine whether these employees should constitute a separate bargaining unit, as contended by one union, or should be included in a bargaining unit with certain other miscellaneous employees of the newspaper, as contended by another union. Cf. *Matter of Mobile Steamship Ass'n* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1297; *Matter of Aluminum Line* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1325. In these cases the Board ordered elections held among clerks and checkers, whose work was closely related to that of longshoremen, to determine whether or not the clerks and checkers should be included in a bargaining unit of longshoremen. Cf. also cases cited in footnote 54, *supra*.

[60] In connection with this question certain cases decided subsequent to the fiscal period covered by this report should be noted: (1) *Matter of Amer. Can Co.* and *Engineers Local No. 30, Firemen & Oilers Local No. 56*, 13 N. L. R. B., No. 126, decided July 29, 1939. In this case, a majority of the Board held that an industrial unit was appropriate, despite the opposition of three craft unions, which had members among employees working at their respective crafts in the plant involved, where the industrial union had entered into an agreement in 1937 with the company recognizing it as the exclusive bargaining agency of all employees, including those in the crafts. Board Member Edwin S. Smith concurred for reasons stated in his dissenting opinion in *Matter of Allis-Chalmers Manufacturing Co.* and *Int. Union, United Automobile Workers of Amer., Local 248*, 4 N. L. R. B. 159, 175. Chairman Madden dissented on the ground that the desires of the craft employees should determine their bargaining unit. See also *Matter of Milton Bradley Co.* and *Int. Printing Pressmen and Assistants Union of N. Amer.*, 15 N. L. R. B., No. 105, decided October 6, 1939. (2) *Matter of Bendix Products Corp.* and *Patt. Mkrs. Assn.*, 15 N. L. R. B., No. 107, decided October 7, 1939. In this case a majority of the Board held that where the Board had certified an industrial union as exclusive representative of employees in an appropriate bargaining unit which included craft employees, and the industrial union both before and after this certification had bargained collectively for the craft employees, a separate unit was not an appropriate one for such craft employees for whom the craft union, which had not claimed that these employees constituted an appropriate unit in the prior hearing, had never bargained. Chairman Madden dissented on the ground that the desires of the craft employees should determine their bargaining unit.

[61] *Matter of The Pure Oil Co.* and *Oil Workers Int. Union Local 265*, 8 N. L. R. B. 207 (industrial union had organized employees since 1933 on an industrial basis and neither craft union of boilermakers nor craft union of machinists introduced evidence showing any substantial membership among employees they claimed fell within their jurisdiction, nor had either craft union ever bargained for, or attempted to organize, these employees); *Matter of Times Publishing Co.* and *The Newspaper Guild of Detroit*, 8 N. L. R. B. 1170 (craft union refused to admit five of six employees, whom it had never bargained for, to membership, but wished inclusion in separate unit of these six employees, three of whom belonged to industrial union); *Matter of Indianapolis Times Publishing Co.* and

upheld an industrial unit despite the opposition of a craft union, where the unit proposed by the craft union had never historically been considered a separate craft group, and did not by reason of the work of the employees constitute a functional group with different interests from those of other employees.[62] Another situation in which the Board has refused to designate a craft unit is where the craft union

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The Indianapolis Newspaper Guild, 8 N. L. R. B. 1256 (three employees claimed by craft union were not members of it, had not designated it to represent them, and were not covered by contract between company and craft union); *Matter of Shell Petroleum Corp.* and *Oil Workers Int. Union, Local No. 361*, 9 N. L. R. B. 831 (craft union intervened at hearing but introduced no evidence; craft union had no members among craft employees and had never bargained for, or attempted to organize, them); *Matter of New York Evening Journal, Inc.* and *Newspaper Guild of New York*, 10 N. L. R. B. 197 (*1.* Craft union for commercial artists did not appear at hearing and none of craft employees opposed inclusion in industrial unit; evidence indicated craft unon had been absorbed by industrial union. *2.* Craft union had no members among craft employees, half of whom belonged to industrial union, and craft union's contract with company excluded such employees. *3.* Two craft unions had no members among craft employees and contract between them and company did not include craft employees, and third craft union had one member but admitted that it had never tried to bargain for craft employees and that contract between it and company expressly excluded them. *4.* Craft union had no members among craft employees and contract between company and it did not cover them); *Matter of Amer. Petroleum Co.* and *Oil Workers Int. Union, Local No. 227*, 12 N. L. R. B. 688 (craft union had no members among 20 craft employees, had never bargained for them, or been designated by them as their representative); *Matter of Wilson Jones Co.* and *Metal Polishers, Buffers, Platers & Helpers Int. Union, Local No. 6*, 12 N. L. R. B. 1351 (craft union presented no evidence; industrial union showed that 22 of 24 former craft union members were now members of industrial union).

[62] *Matter of Wheeling Steel Corp.* and *Order of Railway Conductors of Amer.*, 8 N. L. R. B. 102 (separate bargaining unit for workers on intraplant railroad refused where evidence showed workers on railroad were not craft workers but ordinary production workers in plant, assigned to railroad; where industrial union admitted such workers to membership; where industrial union bargained for such workers and had contracts covering them with other employers in same industry; and where at another plant of the same company craft union had contract with company which excluded such workers); *Matter of Southport Petroleum Co.* and *Oil Workers Int. Union, Local No. 227*, 8 N. L. R. B. 792 (employees claimed to constitute separate craft bargaining unit were not shown to be skilled workers and evidence indicated that they were ordinary production employees similar to employees craft union admitted fell within jurisdiction of industrial union); *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of Amer. No 12*, 9 N. L. R. B. 147 (Board found appropriate a unit of all craft employees, but excluded from such unit employees in four departments whose duties were dissimilar from those of the craft employees and who were unskilled workers, for whom the craft union did not bargain until several years after it first had bargained for craft employees); *Matter of R. C. A. Communications, Inc.* and *Amer. Radio Telegraphists Ass'n*, 9 N. L. R. B. 915 (Board found inappropriate unit of "point-to-point personnel" where evidence showed that such unit did not include all employees who did same type of work as point-to-point personnel and that point-to-point employees had widely different training and little similarity in their duties); *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924 (*1.* Board found inappropriate a unit limited to craft employees in only six departments of company but found unit including all craft employees in all departments of company would be appropriate if craft employees so desired; *2.* Board denied request of another craft union for separate bargaining unit for group of employees where evidence failed to show any homogeneity among employees in alleged unit and where craft union had never bargained for them); *Matter of Seattle Post-Intelligencer Department of Hearst Publications, Inc.* and *Seattle Newspaper Guild, Local No. 82*, 9 N. L. R. B. 1262 (*1.* Unit of "creative" workers found inappropriate where term "creative" did not indicate definite workable standard to permit differentiation between interests of "creative" employees and interests of other employees, and where the 19 employees claimed by union to fall within this group did not have special skills or functions and did work closely related to work of other employees. *2.* Unit of employees in advertising department found inappropriate where no history of collective bargaining for such a unit either among employees of this employer or of other employers in same industry, and where no evidence that advertising workers, by reason of skill or function, constituted a craft group); *Matter of New Year Evening Journal, Inc.* and *Newspaper Guild of New York*, 10 N. L. R. B. 197 (unit of some of employees in advertising department found inappropriate where exclusion of other employees in department found not justified by any differences in work, and where no similar unit existed in industry); *Matter of Paper, Calmenson & Co.* and *United Electrical, Radio and Machine Workers of Amer., Local No. 1142*, 10 N. L. R. B. 228 (unit limited to skillful workers and excluding semiskilled or unskilled employees found inappropriate, where evidence showed skilled workers did not constitute separate craft group, since all workers were transferred from one department to another and had similar wages, hours and working conditions; where all bargaining in past had been on plant-wide basis; and where "craft" union admitted all employees in plant to membership and in beginning had solicited members among all types of employees in plant); *Matter of Westinghouse Electric & Manufacturing Co.* and *United Electrical, Radio & Machine Workers of Amer.*, 10 N. L. R. B. 794 (unit consisting of all employees working in basement found inappropriate where 20 of these 45 employees were unskilled noncraft workers; where "craft" union admitted all employees in plant to membership and had attempted to organize on plant-wide basis; and where industrial union had exclusive bargaining contract with company before "craft" union began to organize employees at plant).

has been aided by practices of the company which the Board has found to constitute unfair labor practices within the meaning of the act.[63] Finally, where there is only one employee in a unit claimed to be appropriate by the craft union, the Board, applying its doctrine that it will not certify a collective bargaining representative for a single employee,[64] has decided that it will not permit this employee to determine his exclusion or inclusion but that it will include him in the industrial unit.[65]

As in the case of conflicts between industrial and craft unions,[66] where two industrial unions disagree, the Board has ordered a group of employees included in an industrial unit if the industrial union proposing their exclusion fails to show that the group constitutes a separate craft by reason of skill or function, or has diverse interests from the employees it wishes to include.[67] If such employees constitute a group ineligible for membership in an industrial union and by reason of their work and skill are eligible for membership in a craft union, the Board, at the request of an industrial union, will exclude them from an industrial unit, despite the opposition of another industrial union.[68]

3. Multiple-Plant and System Units

In determining whether the employees of one, several, or all plants of an employer, or the employees in all or only a part of a system of communications, transportation, or public utilities, constitute an appropriate unit for the purposes of collective bargaining, the Board

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[63] *Matter of The Serrick Corp.* and *Int. Union, United Automobile Workers of Amer., Local No. 459*, 8 N. L. R. B. 621. An additional reason for the Board's finding in this decision was the fact that the "craft" union had attempted to organize all the employees of the company, forming one local for the craft employees and another local for the remainder of the employees. The Board pointed out that this division of the employees into two locals for organizational purposes was artificial and that the "craft" union had really organized on an industrial basis and therefore could not be heard to maintain that the craft unit was appropriate. Chairman Madden did not concur in this ground of the decision.

[64] *Matter of Luckenbach Steamship Co., Inc.* and *Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38–124*, 2 N. L. R. B. 181.

[65] *Matter of Joseph S. Finch & Co., Inc.* and *United Distillery Workers Union, Local No. 3*, 10 N. L. R. B. 896. Chairman Madden dissented.

[66] See cases cited in footnote 62, *supra*.

[67] *Matter of Terminal Flour Mills Co.* and *Int. Longshoremen's and Warehousemen's Union, Local 1–28*, 8 N. L. R. B. 381 (Board found inappropriate unit sought by one industrial union and opposed by another industrial union, where union seeking unit of warehouse employees only had previously sought unsuccessfully to represent all employees in plant, had sought plant-wide units among employees of other employers in same industry, and failed to show any difference between work of warehousemen and that of other employees it would exclude; Board found prior bargaining history of employees of plant separating them into two units indecisive where based on jurisdictional disputes); *Matter of United Fruit Co.* and *Industrial Union of Marine & Shipbuilding Workers of Amer., Local 22*, 9 N. L. R. B. 591 (claim of one industrial union for unit composed of ship repair and maintenance workers, excluding employees working on maintenance and repair of piers, rejected, where evidence showed that both classes of employees had same wages, hours of work and working conditions and did similar work, and that neither group constituted a craft); *Matter of Hat Corp. of Amer.* and *United Hatters, Cap and Millinery Workers Int. Union*, 11 N. L. R. B. 1206 (claim of one industrial union for unit of only part of employees in one department rejected, where evidence showed such employees did not constitute a craft and that their work was similar to that of excluded employees; and where another union desired an industrial unit; the Board pointed out that the claims of the one union were based upon the extent of its organization, which included only part of the employees in the plant, and that the extent of its organization could not determine the bargaining unit where the opposing union had organized on a plant-wide basis).

[68] *Matter of Armour & Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 235*, 10 N. L. R. B. 912 (truck drivers excluded, ineligible for membership); *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491 (teamsters excluded, eligible for membership in other, craft, union); *Matter of Swift & Co.* and *Comm. for Industrial Organization*, 11 N. L. R. B. 950 (truck drivers excluded, eligible for membership in other, craft, union).

has taken into consideration the following factors: (1) the history, extent, and type of organization of the employees; (2) the history of their collective bargaining, including any contracts; (3) the history, extent, and type of organization, and the collective bargaining, of employees of other employers in the same industry; (4) the relationship between any proposed unit or units and the employer's organization, management, and operation of his business, including the geographical location of the various plants or parts of the system; and (5) the skill, wages, working conditions, and work of the employees. When all the unions, or the only bona fide labor organization, involved, request the Board to find that the employees in one or several but not all of the plants of one employer, constitute an appropriate unit, if this proposed unit corresponds with the present extent of organization of employees, the Board generally finds such a unit appropriate, despite the claim of the company that the employer-wide unit is appropriate.[69] To find otherwise would often be to deny to the employees any representative for the purposes of collective bargaining until all the employees of the company had been organized. The Board has pointed out in such cases that whenever some union requests an employer-wide unit and has organized to that extent, the Board may then designate the wider unit.

Despite the claim of the employer that separate units for each plant are appropriate, where the only bona fide union or unions have organized employees in all the plants and request an employer-wide unit, the Board ordinarily finds such a unit appropriate.[70] In *Matter of Pittsburgh Plate Glass Co.* and *Federation of Flat Glass Workers of Amer.*,[71] a majority of employees at one of the plants opposed the request of the only bona fide labor organization involved for a division-wide unit including this plant. The Board established the division-wide unit since the only bona fide union had organized employees throughout the division. Such units tend to place the employees on a basis of equal bargaining strength with the employer and to prevent any disharmony in the bargaining process to the temporary advantage

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[69] *Matter of Amer. Tobacco Co., Inc.* and *Comm. for Industrial Organization, Local No. 472*, 9 N. L. R. B. 579 (1 of 6 plants); *Matter of West Kentucky Coal Co.* and *United Mine Workers of Amer., District No. 23*, 10 N. L. R. B. 88 (2 of 8 mines); *Matter of Pittsburgh Plate Glass Co.* and *Federation of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1111 (2 plants excluded from division-wide unit); *Matter of New England Spun Silk Corp.* and *Federal Union of Textile Workers*, 11 N. L. R. B. 852 (1 of 2 mills); *Matter of The Texas Co.* and *Oil Workers Int. Union Local #280*, 11 N. L. R. B. 925 (1 of 10 districts in 1 of 5 divisions of company's operations); *Matter of Continental Oil Co.* and *Oil Workers Int. Union*, 12 N. L. R. B. 789 (gas plant employees excluded from unit of field employees); *Matter of Luckenbach Steamship Co., Inc.* and *Maritime Office Employees Ass'n*, 12 N. L. R. B. 1333 (uptown office employees excluded from unit of dock employees); *Matter of Kansas City Power & Light Co.* and *Local Union B-412, Int. Brotherhood of Electrical Workers*, 12 N. L. R. B. 1461 (3 of several plants). Cf. *Matter of The Middle West Corp.* and *Int. Brotherhood of Electrical Workers*, 10 N. L. R. B. 618, footnote 78, *infra*, and cases cited in footnotes 47 and 48, *supra*.

[70] *Matter of The Sorg Paper Co.* and *Comm. for Industrial Organization*, 8 N. L. R. B. 657 (two plants); *Matter of Sound Timber Co.* and *Int. Woodworkers of Amer.*, 8 N. L. R. B. 844 (two logging camps 25 miles apart); *Matter of Inland Steel Co.* and *Steel Workers Organ. Comm.*, 9 N. L. R. B. 783 (two plants 25 miles apart); *Matter of R. C. A. Communications, Inc.* and *Amer. Radio Telegraphists Ass'n*, 9 N. L. R. B. 915 (system-wide unit); *Matter of Nekoosa-Edwards Paper Co.* and *Int. Brotherhood of Paper Makers, Local No. 59*, 11 N. L. R. B. 446 (two mills 4 miles apart); *Matter of Highland Park Manufacturing Co.* and *Textile Workers Organ. Comm.*, 12 N. L. R. B. 1238 (three mills). Cf. cases cited in footnote 78, *infra*, except the *Middle West* case.

[71] 10 N. L. R. B. 1111, footnote 72, *infra*. On September 19, 1939, in 15 N. L. R. B., No. 58, the Board reaffirmed its previous finding in the *Pittsburgh* case concerning an appropriate unit. Board Member Leiserson dissented on the ground that this unit was not an appropriate one.

of one section of the employees as against others, without rational justification based on differences in the nature of their work.[72]

Where two bona fide unions disagree as to whether or not the unit should be employer-wide or system-wide, the Board examines the claims of the rival unions in the light of the factors set forth above.[73] If employees in a system of communications, transportation, or public utilities are involved, the employer's organization, management, and operation of his business as a single closely integrated enterprise result in an intimate interrelationship and interdependence in the work and interests of the employees.[74] Such factors usually exist to a lesser extent in cases of manufacturing plants.

Where two bona fide unions disagree and neither has organized the employees at all, or nearly all, the plants, or bargained collectively on an employer-wide basis, the Board has established a unit confined to the plants already organized by the petitioning union.[75] On the other hand, where one union organized employees at all seven plants of the employer and bargained collectively on an employer-wide basis, and the opposing union had members and a majority at one plant only, recently purchased by the company, the employees of which constituted a very small proportion, relatively, of the total number of employees in the employer-wide unit, the Board designated the employer-wide unit.[76]

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[72] Thus, in *N. L. R. B.* v. *Christian A. Lund*, 103 F. (2d) 815 (C. C. A. 8th, 1939), upholding the finding of the Board in *Matter of C. A. Lund Co.* and *Novelty Workers Union, Local 1866*, 6 N. L. R. B. 423, that the employees of two plants constituted an appropriate unit, the court said:

"If Lund [the employer] may deal with the employees of the two plants as separate units it is believed that collective bargaining would be a farce and that Lund, because of his hostility to the Union, would evade the purpose and intent of the law by transferring business from one plant to the other as his interest dictated according to the unit with which he could make the most favorable bargain. In other words Lund would be in a position where he could force competition between the two groups of his employees to their detriment and his gain."

Cf. *Matter of Inland Steel Co.* and *Steel Workers Organ. Comm.*, 9 N. L. R. B. 783 (when employees of one plant sought wage increase, company stated that other plant could do work more cheaply); *Matter of Pittsburgh Plate Glass Co.* and *Federation of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1111, 15 N. L. R. B., No. 58, footnote 71, *supra* (when strike by union closed all plants except one in division, company transferred all business temporarily to that plant; when strike was settled with wage increase, company gave same wage increase to employees at nonstriking plant); *Matter of Libbey-Owens-Ford Glass Co.* and *Federation of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1470.

[73] In *Matter of Wisconsin Telephone Co.* and *Telephone Operators Union, Local 115–A*, 12 N. L. R. B. 375, since the system-wide unit desired by one union had been first established through the employer's unfair labor practices, the Board upheld the partial-system unit desired by another labor organization. In *Matter of The Western Union Telegraph Co., Inc.* and *The Commercial Telegraphers' Union*, 11 N. L. R. B. 1154, the only union which desired a system-wide unit had been found to be company dominated by the Trial Examiner in his Intermediate Report, as a result of charges filed by a second union. The Board held that a unit of part of the system was appropriate, as contended by a third union, since it would be unfair to the third union to delay a decision on the appropriate bargaining unit until the Board had reviewed the Trial Examiner's decision regarding the company's domination of the first union, and since if this union were in fact company-dominated, a finding that a system-wide unit was appropriate would result in a denial of any collective bargaining representative to the employees in the system, because the only other unions involved had not organized, and did not desire, such a wide unit. *Cf. Matter of The Serrick Corp.* and *Int. Union, United Automobile Workers of Amer., Local No. 459*, 8 N. L. R. B. 621, footnote 63, *supra*.

[74] *Matter of Postal Telegraph-Cable Corp. of New York* and *Commercial Telegraphers' Union*, 9 N. L. R. B. 1060, footnote 80, *infra*.

[75] *Matter of Belmont Iron Workers* and *Int. Ass'n of Bridge, Structural and Ornamental Iron Workers*, 9 N. L. R. B. 1202 (two plants organized only by one union, third plant organized only by second union); *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local 132*, 10 N. L. R. B. 1123 (separate parts of system organized by each union).

[76] *Matter of Libbey-Owens-Ford Glass Co.* and *Federation of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1470, *Cf. Matter of Postal Telegraph-Cable Corp. of New York* and *Commercial Telegraphers' Union*, 9 N. L. R. B. 1060, footnote 80, *infra; Matter of Chrysler Corp.* and *United Automobile Workers of Amer., Local 371*, 13 N. L. R. B., No. 121; *Matter of Briggs Manufacturing Co.* and *Int. Union, United Automobile Workers of Amer.*, 13 N. L. R. B., No. 123. In the *Chrysler* and *Briggs* cases, decided July 31, 1939, the Board refused the request of the petitioning union to find that all the plants of each

4. Multiple Employer Units

In determining whether or not to group the employees of several employers into one bargaining unit, the Board has distinguished between competing and independently controlled companies and companies interrelated through stock ownership and commonly controlled and operated. The Board has treated the latter as a single employer and has followed the principles set forth in the preceding sections in determining an appropriate bargaining unit or units. In such cases the Board has refused to reject a unit as inappropriate merely because the employees of more than one employer are included.[77] If only one bona fide labor organization has organized the employees of such employers, the Board has found appropriate the unit desired by this union when this unit corresponds with its extent of organization, whether employees of all or several of the employers at all or several of their plants are included.[78] Similarly, when two rival unions present conflicting views concerning an appropriate bargaining unit or units for employees of such companies, the Board has resolved such conflicts in the same manner as in the cases discussed in the previous sections. Thus, in *Matter of Elliott Bay Lumber Co.* and *Plywood and Veneer Workers Union, Local No. 26*,[79] two commonly owned companies used the same properties and there was no functional or craft distinction between the employees of each. One industrial union had organized the employees of both companies in a single local union and the other industrial union had organized the employees of both companies but had established separate locals for each. The Board established a single unit comprising both companies. Also the Board has designated a system-wide unit, requested by one union which had organized to that extent, despite the opposition of another union, organized and seeking separate units in only a relatively small part of the entire system.[80]

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company constituted an appropriate bargaining unit, since each of two rival unions claimed a majority at each of the plants of each company so that their organizations overlapped throughout all the plants of each employer. Board member Edwin S. Smith dissented on the ground that in each case an employer-wide unit was appropriate.

[77] In *N. L. R. B.* v. *Christian A. Lund*, 103 F. (2d) 815 (C. C. A. 8th, 1939), the court upheld the finding of the Board in *Matter of C. A. Lund Co.* and *Novelty Workers Union, Local 1866*, 6 N. L. R. B. 423, that the employees of two commonly owned, controlled, and operated companies constituted an appropriate bargaining unit, saying:

"* * * whoever as or in the capacity of an employer controls the employer-employee relations in an integrated industry is the employer * * * it can make no difference in determining what constitutes an appropriate unit for collective bargaining whether there be two employers of one group of employees or one employer of two groups of employees. Either situation having been established the question of appropriateness depends upon other factors such as unity of interest, common control, dependent operation, sameness in character of work and unity of labor relations."

[78] *Matter of Royal Warehouse Corp.* and *Glass Warehouse Workers and Paint Handlers Local Union No. 206*, 8 N. L. R. B. 1218 (employees of two companies managed and controlled by same three individuals); *Matter of Kling Factories* and *Locals 12, 13, 14, and 15 Organized Furniture Workers*, 8 N. L. R. B. 1228 (employees of five companies, all operated and controlled by one management group which formulated all their labor policies); *Matter of The Middle West Corp.* and *Int. Brotherhood of Electrical Workers*, 10 N. L. R. B. 618 (employees of four commonly owned, controlled, and managed corporations found to constitute appropriate bargaining unit, excluding employees of a fifth corporation commonly owned and controlled with the other four, since union had not organized employees of that corporation); *Matter of The Calco Chemical Co., Inc.* and *The Calcocraft*, 13 N. L. R. B., No. 5 (employees of two companies commonly owned and operated). Cf. cases cited in footnotes 69, 70, 71 and 72, *supra*.

[79] 8 N. L. R. B. 753. In *Matter of Bloedel-Donovan Lumber Mills* and *Int. Woodworkers of Amer., Local No. 46*, 8 N. L. R. B. 230, both unions had organized and bargained for the employees of the two commonly controlled companies in a single unit; the Board found such a unit appropriate. Cf. cases cited in footnote 67, *supra*.

[80] *Matter of Postal Telegraph-Cable Corp. of New York* and *Commercial Telegraphers' Union*, 9 N. L. R. B. 1060. Cf. cases cited in footnote 76, *supra*.

In *Matter of Union Premier Food Stores, Inc.* and *United Retail & Wholesale Employees of Amer.*,[81] the petitioning union, whose organization extended to employees at all plants of all the employers, requested a single unit for these employees. The opposing unions, each of which sought a unit comprising several plants, based their unit claims solely upon the present extent of their organization. The unit proposed by each of these unions did not include all the plants of any one employer, and often included plants of several of the employers. In a prior hearing of the same case each of these unions had sought a single unit comprising all the plants involved. The Board established the wider unit sought by the petitioning union.

In the case of independent and competing companies, the Board has grouped the employees of such companies into one bargaining unit only where there exists an association of employers or other employers' agent, exercising employer functions, with authority from the employers to bargain collectively and enter into binding agreements with labor organizations, and where the history of collective bargaining has been upon a multiple employer basis. In the absence of such an association or common agent, the Board has refused to find a multiple-employer unit appropriate.[82] If such an association or agent exists, the Board has adopted the wide unit only when the history of collective bargaining in the industry shows the necessity and desirability of such a unit from the standpoint of effective collective bargaining and peaceful labor relations.[83]

5. Exclusion or Inclusion of Supervisory and Fringe Group Employees

The Board excludes supervisory employees if all the unions or the only bona fide union involved request their exclusion.[84] The Board

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[81] 11 N. L. R. B. 270. In this case the Board ordered elections to be held to determine whether craft employees of all the employers should constitute separate craft units. See footnote 58, *supra*.

[82] *Matter of Aluminum Line* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1325; *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491; *Matter of Trawler Maris Stella, Inc.* and *American Communications Ass'n*, 12 N. L. R. B. 415; *Matter of M. & J. Tracy, Inc.* and *Inland Boatmen's Union*, 12 N. L. R. B. 936 (in 15 N. L. R. B., No. 121, the Board, after a supplementary hearing in which further evidence had been introduced, found a multiple employer unit appropriate in the *Maris Stella* case). In the *Tracy* case, *supra*, the Board said: "Although we have held * * * that where a group of employers deal jointly through an employer's association, the employees of all members of the association should constitute an appropriate unit, such a conclusion has not been reached where the association * * * has no legal power to contract for its members and exercises no employer functions."

The Board will not establish a multiple-employer unit merely because employees continually shift employment among the employers, or because a labor organization has negotiated with the employers through an association which lacks legal power to contract for its employer members. See the cases cited previously in this footnote.

[83] *Matter of Mobile Steamship Ass'n* and *Int. Longshoremen and Warehousemen's Union*, 8 N. L. R. B. 1297; *Matter of Monon Stone Co.* and *Quarry Workers' Int. Union of N. Amer.*, 10 N. L. R. B. 64. Cf. *Matter of Admair Rubber Co.* and *Amer. Federation of Labor*, 9 N. L. R. B. 407; *Matter of Hyman-Michaels Co.* and *Int. Union of Mine, Mill and Smelter Workers, Local No. 50*, 11 N. L. R. B. 796. In the *Admair* case the Board, in refusing to uphold a unit limited to the employees of one doll manufacturer in New York City, said: "The success and effectiveness of collective bargaining on an industry-wide basis in and around New York City * * * is attested by the fact that since 1934 there has been an orderly functioning of the process of collective bargaining and the settlement of disputes, in sharp contrast to the chaotic conditions prevailing prior to 1934. By virtue of such collective bargaining wages and hours have been standardized; sweatshop conditions, child labor, and other evils, so long prevalent in the industry prior to the attainment of a contract in 1934, have been practically eliminated; and a system of arbitration has been established which is mutually satisfactory both to employers and employees and which has led to a peaceful solution of the labor problems arising in the industry."

[84] *Matter of Clinton Garment Co.* and *Int. Ladies Garment Workers Union*, 8 N. L. R. B. 775 (part-time instructors); *Matter of Roberti Brothers, Inc.* and *Furniture Workers*

has applied the same principle to exclude employees who are in an intimate relationship with officers of the company.[85] On the other hand, the Board ordinarily includes minor supervisory employees at the request of all the bona fide unions involved.[86]

The Board has noted that in the case of rivalry between unions, an employer cannot well remain impartial and not interfere, through the activity of supervisory employees, with the rights of the employees to self-organization if supervisory employees are eligible to participate in the selection of bargaining representatives for non-supervisory employees. The Board, therefore, excludes supervisory employees, if any of the labor organizations involved so requests.[87]

Commonly the Board must determine whether to include or exclude employees, such as watchmen, whose work places them on the fringe of the functions of employees admittedly in the unit. The Board generally includes such fringe groups if all the bona fide labor unions involved so ask. Thus the Board has included in a bargaining unit

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Union, Local 1561, 8 N. L. R. B. 925 (working foremen); *Matter of A. Fink and Sons Co., Inc.* and *Amal. Meat Cutters & Butcher Workmen of N. A., Local 422*, 9 N. L. R. B. 441 (working foremen); *Matter of Inland Steel Co.* and *Steel Workers Organ. Comm.*, 9 N. L. R. B. 783 (nonmanagement supervisory employees); *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123 (foremen, subforemen, and gang foremen); *Matter of The Texas Co.* and *Oil Workers Int. Union, Local 280*, 11 N. L. R. B. 925 (head roustabouts); *Matter of Allied Paper Mills* and *United Paper Mill Workers' Local Industrial Union 398*, 12 N. L. R. B. 677 (boss machine tenders). See also the many similar cases cited in the Third Annual Report, pp. 181–83. Cf. *Matter of Seas Shipping Co.* and *National Organization Masters, Mates & Pilots of Amer.*, 8 N. L. R. B. 422; *Matter of New York & Cuba Mail Steamship Co.* and *National Organization Masters, Mates and Pilots of Amer.*, 9 N. L. R. B. 51 (masters included in unit of licensed personnel of ships, despite opposition of union, because union had admitted them as members and bargained for them for many years previously, and because masters often served as mates).

[85] *Matter of Louis Weinberg Associates, Inc.* and *United Wholesale and Warehouse Employees, Local No. 65*, 13 N. L. R. B., No. 9 (children of president and of vice president of company).

[86] *Matter of Singer Manufacturing Co.* and *United Electrical, Radio and Machine Workers of Amer., Local No. 917*, 8 N. L. R. B. 434 (inspectors); *Matter of Richmond Hosiery Mills* and *Textile Workers Organ. Comm.*, 8 N. L. R. B. 1073 (section men); *Matter of Merrimack Manufacturing Co.* and *Amer. Federation of Labor*, 9 N. L. R. B. 173 (second hands); *Matter of Shell Petroleum Corp.* and *Oil Workers Int. Union, Local No. 367*, 9 N. L. R. B. 831 (67 miscellaneous supervisory employees); *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924 (foremen, assistant foremen, and foreladies).

[87] *Matter of Elliott Bay Lumber Co.* and *Plywood and Veneer Workers Union, Local No. 26*, 8 N. L. R. B. 753; *Matter of The Walworth Co.* and *Pattern Makers Ass'n of Pittsburgh*, 8 N. L. R. B. 765; *Matter of The Electric Auto-Lite Co.* and *Int. Ass'n of Machinists, Local 218*, 10 N. L. R. B. 1239; *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491; *Matter of The Int. Nickel Co., Inc.* and *Square Deal Lodge No. 40, Amal. Ass'n of Iron, Steel, and Tin Workers of N. Amer.*, 11 N. L. R. B. 97; *Matter of Mt. Vernon Car Manufacturing Co.* and *Local Lodge No. 1756, Amal. Ass'n of Iron, Steel & Tin Workers of N. Amer.*, 11 N. L. R. B. 500, 525; *Matter of The Connor Lumber & Land Co.* and *Int. Woodworkers of Amer., Local No. 125*, 11 N. L. R. B. 776; *Matter of Kingsley Lumber Co.* and *Lumber and Sawmill Workers, Local No. 2879*, 13 N. L. R. B., No. 23. In *Matter of Consumers Power Co.* and *Int. Brotherhood of Electrical Workers, Local 876*, 9 N. L. R. B. 742, 10 N. L. R. B. 780, the Board first included minor supervisory employees in an appropriate bargaining unit, where both unions admitted them as members, despite the opposition of one union, but in a later decision the Board excluded them from an appropriate bargaining unit after evidence was introduced showing that these supervisory employees had engaged in unfair labor practices. In *Matter of Jones Lumber Co.* and *Lumber and Sawmill Workers Union, Local No. 2877*, 12 N. L. R. B. 209, foremen, admitted to membership by both unions and found, at the request of both unions, to be in an appropriate bargaining unit in a prior decision of the Board, were excluded from a bargaining unit at the request of one union when the evidence showed that such foremen had engaged in unfair labor practices since the Board's prior decision.

Cf. *Matter of Standard Oil Co. of New Jersey* and *United Licensed Officers*, 8 N. L. R. B. 936; *Matter of Tide Water Associated Oil Co.* and *United Licensed Officers*, 9 N. L. R. B., 823 (masters included in unit of licensed personnel of ships, despite opposition of one union, because opposing union had admitted them as members and bargained for them previously for many years, and because masters often served as mates; no evidence of unfair labor practices by masters).

of production employees watchmen,[88] and timekeepers and factory clerks.[89]

On the other hand, when all the bona fide unions involved desire the exclusion of a fringe group of employees or a group of employees whose interests are even more distinct from those of employees in a bargaining unit than those of a fringe group, the Board has excluded such groups.[90] In such cases, the Board has excluded maintenance employees,[91] watchmen,[92] timekeepers and factory clerks,[93] outside employees such as field workers or salesmen,[94] clerical employees and office workers,[95] and technical and professional employees, such as doctors, nurses, laboratory workers and engineers.[96] Where the unions are unable to agree on the exclusion or inclusion of such groups the Board generally excludes them. Thus the Board has excluded watchmen,[97] timekeepers and factory clerks,[98] stenographers,[99] and technical and professional employees, such as nurses, chemists and laboratory workers.[1]

The Board usually includes part-time, temporary, irregular, extra, or seasonal employees in an appropriate unit, if the only labor

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[88] *Matter of Aluminum Ore Co.* and *Aluminum Workers Union No. 18780*, 8 N. L. R. B. 914; *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of Amer. No. 12*, 9 N. L. R. B. 147; *Matter of Merrimack Manufacturing Co.* and *Amer. Federation of Labor*, 9 N. L. R. B. 173; *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924; *Matter of Pacific Mills* and *Dover Independent Textile Workers' Union*, 10 N. L. R. B. 26; *Matter of American-Hawaiian Steamship Co.* and *Gatemen, Watchmen & Miscellaneous Waterfront Workers Union, Local 38–124*, 10 N. L. R. B. 1355; *Matter of Illinois Knitting Co.* and *Federal Labor Union No. 21025*, 11 N. L. R. B. 48; *Matter of Agwilines, Inc.* and *Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees*, 12 N. L. R. B. 366.

[89] *Matter of Aluminum Co. of Amer.* and *Int. Union, Aluminum Workers of Amer.*, 8 N. L. R. B. 164 (timekeepers and tally clerks included in unit of production and maintenance employees); *Matter of Southern Pacific Steamship Lines* and *Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees*, 8 N. L. R. B. 1263 (timekeepers included in unit of production and maintenance employees); *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924 (timekeepers, time checkers, payroll clerks, and other factory clerks included in unit of production and maintenance employees).

[90] In addition to the groups hereinafter discussed, the Board, as previously pointed out, also excludes, at the request of any bona fide labor organization, a group of craft employees, eligible for membership in other craft unions, whose skill and work sharply distinguishes their interests from those of employees in the unit. See cases cited in footnotes 49 and 68, *supra*.

[91] *Matter of Cayuga Linen & Cotton Mills, Inc.* and *Textile Workers Organ. Comm.*, 11 N. L. R. B. 1 (unit of production employees excluding maintenance employees found appropriate where union had organized only production employees).

[92] *Matter of Southport Petroleum Co.* and *Oil Workers Int. Union, Local No. 227*, 8 N. L. R. B. 792; *Matter of Yates-American Machine Co.* and *Int. Ass'n of Machinists, Local 1139*, 10 N. L. R. B. 786; *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local 132*, 10 N. L. R. B. 1123 (union first desired inclusion but subsequently desired exclusion of watchmen).

[93] *Matter of Armour & Co.* and *Packing House Workers Organ. Comm.*, 8 N. L. R. B. 1100 (checkers and scalers); *Matter of Yates-American Machine Co.* and *Int. Ass'n of Machinists, Local 1139*, 10 N. L. R. B. 786 (plant clerical employees); *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123; *Matter of The Stolle Corp.* and *Metal Polishers, Buffers, Platers and Helpers Int. Union*, 13 N. L. R. B., No. 44 (timekeeper).

[94] *Matter of B. F. Sturtevant Co.* and *United Electrical and Radio Workers Local Industrial Union No. 248*, 8 N. L. R. B. 835 (field employees); *Matter of Louis Weinberg Associates, Inc.* and *United Wholesale and Warehouse Employees, Local No. 65*, 13 N. L. R. B., No. 9 (outside salesmen).

[95] *Matter of Roberti Brothers, Inc.* and *Furniture Workers Union, Local No. 1561*, 8 N. L. R. B. 925.

[96] *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123.

[97] *Matter of Armour & Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 235*, 10 N. L. R. B. 912; *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491.

[98] *Matter of Westinghouse Electric and Manufacturing Co.* and *United Electrical, Radio and Machine Workers of Amer.*, 12 N. L. R. B. 1360; *Matter of Alabama By-Products Corp.* and *District 50, United Mine Workers of Amer.*, 13 N. L. R. B., No. 49.

[99] *Matter of Alabama By-Products Corp.* and *District 50, United Mine Workers of Amer.*, 13 N. L. R. B., No. 49.

[1] *Matter of F. E. Booth & Co.* and *Monterey Bay Area Fish Workers Union No. 23*, 10 N. L. R. B. 1491; *Matter of Alabama By-Products Corp.* and *District 50, United Mine Workers of Amer.*, 13 N. L. R. B., No. 49.

organization involved so desires.[2] And, at the request of the only labor organization involved, the Board has excluded seasonal employees from an appropriate bargaining unit of nonseasonal employees, where the evidence established that the union had not attempted to organize them and that they had shown no interest in the union.[3]

The exclusion or inclusion of an alleged fringe group of employees is always dependent upon the Board's finding that they constitute a true fringe group. In determining this fact the Board looks to: (1) The skill, work, working conditions and wages of these employees and of employees admittedly in the unit; (2) the history, type, and extent of organization of employees in the plant, and in the industry; (3) the history of collective bargaining in the plant, and in the industry; and (4) the eligibility of such employees for membership in labor organizations. Thus, the Board has included office employees in a unit of production employees, at the request of the only labor organization involved, when the functions and interests of the latter were not substantially different from those of the office employees.[4] Where, however, a union sought to include office employees in a unit of production and maintenance employees at a manufacturing plant, the Board held that the desires of the office employees should determine whether or not they should be included in the unit, because of the differences in the work and interests of the two groups and because of the fact that, as shown by the lack of any history of collective bargaining or organization on such a basis, office employees ordinarily would not be included in such a unit.[5] In *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of Amer. No. 12*,[6] the only labor organization involved sought to include nurses in a unit of production and maintenance employees at an industrial plant. There was no evidence of any collective bargaining or organization either at the plant or in the industry on this basis. The Board excluded the nurses because of the sharp distinctions between their interests, work, and training, and those of the other employees.

On the other hand, the Board has refused to exclude a group of employees at the request of a union if there is so little difference between the work of the employees to be excluded and of those to be included that the group to be excluded does not properly constitute a fringe group, especially where there is no other labor organization to represent the group and one or all the unions, which are industrial, admit such employees to membership.[7] The Board has also rejected

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[2] *Matter of A. Sartorius & Co., Inc.* and *United Mine Workers of Amer., District 50*, 9 N. L. R. B. 19 (temporary employees); *Matter of Southern California Gas Co.* and *Utility Workers Organ. Comm., Local No. 132*, 10 N. L. R. B. 1123 (temporary employees); *Matter of Agwilines, Inc.* and *Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees*, 12 N. L. R. B. 366 (extra employees).

As pointed out in section E-2 (A) *supra*, the Board establishes standards of eligibility for such classes of employees, to insure that those who participate in the election have sufficient employee status to have an interest in the selection of a bargaining agent for the unit. See footnote 15, *supra*.

[3] *Matter of Seymour Packing Co.* and *Amal. Meat Cutters and Butcher Workmen of N. Amer., Local No. 176*, 12 N. L. R. B. 1098.

[4] *Matter of Louis Weinberg Associates, Inc.* and *United Wholesale and Warehouse Employees, Local No. 65*, 13 N. L. R. B., No. 9.

[5] *Matter of The Electric Auto-Lite Co.* and *Int. Union, United Automobile Workers of Amer. No. 12*, 9 N. L. R. B. 147; *Matter of Willys Overland Motors, Inc.* and *Int. Union, United Automobile Workers of Amer., Local No. 12*, 9 N. L. R. B. 924. The Board directed separate elections to be held among the office employees.

[6] 9 N. L. R. B. 147.

[7] *Matter of Harter Corp.* and *Int. Assn. of Machinists*, 8 N. L. R. B. 391 (engineering employees included in bargaining unit of production and maintenance employees where no evidence that they were eligible for membership in any other labor union or that their

the requests of labor organizations to find appropriate bargaining units based solely upon distinctions of race.[8] Nor will the Board find appropriate bargaining units based solely upon distinctions of sex, if any bona fide labor organization opposes such a distinction and has organized the employees without regard to it.[9]

H. REMEDIES

Section 10 (c) of the act reads, in part, as follows:

* * * If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order.

Pursuant to section 10 (c) the Board adapts its orders to the "situation which calls for redress."[10] The Third Annual Report described in detail the various orders to cease and desist and to take affirmative action which the Board issued during the period covered by that report.[11] In the course of the Board's decisions there have been developed typical orders for the correction of typical unfair labor practices engaged in by employers. Such orders have been issued in appropriate cases during the last fiscal year. In addition new situations have called for further adaptations of typical Board orders. These developments may be considered conveniently under the following categories:

1. Orders in cases in which the Board has found that an employer has engaged in unfair labor practices within the meaning of section 8 (2) of the act.
2. Orders in cases in which the Board has found that an employer has engaged in unfair labor practices within the meaning of section 8 (3) of the act.
3. Orders in cases in which the Board has found that an employer has engaged in unfair labor practices within the meaning of section 8 (5) of the act.

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work differed from that of other employees admittedly in bargaining unit); *Matter of B. F. Sturtevant Co.* and *United Electrical and Radio Workers Local Industrial Union No. 218*, 8 N. L. R. B. 835 (inspectors and set-up men found to form an essential part of the production organization and included in bargaining unit of production employees, where union had members among them); *Matter of Colonie Fiber Co., Inc.* and *Cohoes Knit Goods Workers Union, No. 21514*, 9 N. L. R. B. 658 (sorters included in unit of production workers where no other labor organization admitted them and their work was that of production employees); *Matter of The Connor Lumber & Land Co.* and *Int. Woodworkers of Amer., Local No. 125*, 11 N. L. R. B. 776 (railroad men and truck drivers eligible for membership in one of two rival unions included in bargaining unit, since both unions were industrial unions, no other union admitted them to membership, and they had previously voted with other employees in consent elections).

[8] *Matter of Amer. Tobacco Co., Inc.* and *Comm. for Industrial Organization, Local No. 472*, 9 N. L. R. B. 579 (unit of white employees only found inappropriate); *Matter of Union Envelope Co.* and *Envelope Workers Union No. 393*, 10 N. L. R. B. 1147 (separate units for white and colored employees found inappropriate); *Matter of Floyd A. Fridell* and *Granite Cutters' Int. Ass'n of Amer.*, 11 N. L. R. B. 249; *Matter of Interstate Granite Corp.* and *Granite Cutters' Int. Ass'n of Amer.*, 11 N. L. R. B. 1046; *Matter of Brashear Freight Lines, Inc.* and *Int. Ass'n of Machinists, District No. 9*, 13 N. L. R. B., No. 25.

[9] *Matter of McCall Corp.* and *Int. Brotherhood of Book-Binders, Local No. 199*, 8 N. L. R. B. 1087 (separate bargaining units for male and female employees found inappropriate where interests and work of both sexes were identical); *Matter of Swift & Co.* and *Comm. for Industrial Organization*, 11 N. L. R. B. 950; *Matter of Hat Corp. of Amer.* and *United Hatters, Cap and Millinery Workers Int. Union*, 11 N. L. R. B. 1206.

[10] See *Clover Fork Coal Co.* v. *N. L. R. B.*, 97 F. (2d) 331, 335, enforcing *Matter of Clover Fork Coal Company* and *District 19, United Mine Workers of America*, 4 N. L. R. B. 202.

[11] At pp. 197–215.

4. Orders in cases in which the Board has found that an employer has engaged in unfair labor practices within the meaning of section 8 (1) of the act.

5. Orders in cases in which the Board has found that a strike was caused or prolonged by an employer's unfair labor practices.

6. Effect on Board orders of violent or unlawful conduct on the part of employees who were discriminatorily discharged or who went on strike in protest against unfair labor practices.

7. Orders requiring an employer not to give effect to agreements.

8. Effect on Board orders of agreements not to proceed against an employer.

9. Precautionary orders.

10. Requirement that an employer publicize terms of Board orders among employees.

1. Orders in Cases in Which the Board Has Found That an Employer Has Engaged in Unfair Labor Practices Within the Meaning of Section 8 (2) of the Act

Upon finding that an employer association had dominated and interfered with a labor organization, the Board, following its usual practice with respect to employers in such cases,[12] ordered the association to withdraw recognition from and to disestablish the dominated organization. The Board in this case also ordered the employer association not to enter into any future contract with the dominated organization on its behalf or on behalf of its members, and to terminate existing agreements with such organization on behalf of those members of the association who were joined as respondents.[13]

2. Orders in Cases in Which the Board Has Found That an Employer Has Engaged in Unfair Labor Practices Within the Meaning of Section 8 (3) of the Act

In cases in which the Board has found that an employer has encouraged or discouraged membership in a labor organization by discrimination in regard to hire or tenure or any term or condition of employment, it has ordered the reinstatement of the persons who have lost their employment because of the employer's discrimination.[14] The Board, however, will not order the reinstatement of an employee who has refused a previous offer of reinstatement.[15] But if the offer of reinstatement is a conditional one, the employee will not be considered to have impaired his right to reinstatement by refusing such an offer.[16]

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[12] Third Annual Report, pp. 197–199.

[13] *Matter of Williams Coal Company* and *United Mine Workers of America, District No. 23*, 11 N. L. R. B. 579, petition for enforcement filed July 28, 1939 (C. C. A. 6).

[14] Third Annual Report, pp. 199–200.

[15] *Matter of Precision Castinas Company, Inc.*, and *Iron Moulders Union of North America, Local 80*, 8 N. L. R. B. 879. Nor will the Board reinstate an employee who states at the hearing that he does not desire reinstatement. *Matter of The Serrick Corporation* and *International Union, United Automobile Workers of America, Local No. 459*, 8 N. L. R. B. 621, enforced on November 20, 1939 *International Association of Machinists et al.* v. *N. L. R. B.* (C. C. A., D. C.); *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440, enforced; *N. L. R. B.* v. *Crossett Lumber Company*, 102 F. (2d) 1003 (C. C. A. 8).

[16] *Matter of Continental Oil Company* and *Oil Workers International Union*, 12 N. L. R. B. 789, petition to review filed May 25, 1939 (C. C. A. 10); *Matter of Stehli & Co., Inc.*, and *Textile Workers Union of Lancaster, Pennsylvania, and Vicinity, Local No. 133*, 11 N. L. R. B. 1397, where the Board stated: "An employee who ceases work as a consequence of unfair labor practices may refuse an offer of employment which is not substantially equivalent without impairing his right to subsequent reinstatement."

The Board, upon finding that an employer has a valid objection to the reinstatement to his former position of an employee discriminated against, has ordered reinstatement to a substantially equivalent position with respect to which the objection does not hold.[17]

The Board has refused to reinstate an employee who, subsequent to a discriminatory discharge, offered his services to the employer as an industrial spy, on the ground that reinstatement of such an employee would not effectuate the policies of the act.[18]

In several cases the Board found that the employment secured by the discharged employee elsewhere was not substantially equivalent to the position held prior to the discrimination, and therefore found it unnecessary to pass upon the issue as to whether or not reinstatement would have been ordered if a discharged employee had, in fact, secured substantially equivalent employment.[19]

In addition to requiring the reinstatement of an employee discriminated against, the Board usually orders an employer to make such employee whole for loss of pay which he normally would have earned had the unfair labor practices not occurred.[20] Under appropriate circumstances the Board will enter a back-pay order even though it does not order reinstatement.[21]

Since the Board seeks to make whole employees who have been discriminated against by payment to them of a sum of money equal to that which the employees would normally have earned had the unfair labor practices not occurred, the amounts earned elsewhere during the period of discrimination are excluded from the sum to be paid.[22] If, however, these amounts are earnings which the employee would have made while in the employ of the respondent, no deduction will be made.[23] Upon the same principle, the Board has held that the net earnings to be deducted from back pay should be computed on the basis of total earnings less the expenses incident to the seeking of new employment, such as transportation costs.[24]

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[17] *Matter of Douglas Aircraft Company, Inc.* and *United Automobile Workers of America, International Union, Douglas Local No. 21½*, 10 N. L. R. B. 242, enforced as modified September 22, 1939 (C. C. A. 9) (statute against employment of alien upon Government work precluded reinstatement to former position; Board ordered reinstatement to substantially equivalent position with proviso that after alien had acquired citizenship he should be restored to former position upon application); *Matter of Harnischfeger Corporation* and *Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 111½*, 9 N. L. R. B. 676, enforced, *N. L. R. B.* v. *Harnischfeger Corp.*, June 6, 1939 (C. C. A. 7) (negligent act of employee which damaged valuable machine discovered by employer subsequent to discriminatory discharge).

[18] *Matter of Thompson Cabinet Company* and *Committee for Industrial Organization, Local Industrial Union No. 115*, 11 N. L. R. B. 1106.

[19] *Matter of L. C. Smith & Corona Typewriters, Inc.* and *International Metal Polishers, Buffers and Platers Union of North America*, 11 N. L. R. B. 1382; *Matter of Automotive Maintenance Machinery Company* and *Steel Workers Organizing Committee et al.*, 13 N. L. R. B., No. 40.

[20] See Third Annual Report, p. 201.

[21] *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440, enforced *N. L. R. B.* v. *Crossett Lumber Company*, 102 F. (2d) 1003 (C. C. A. 8). (Employees did not desire reinstatement); *Matter of El Paso Electric Company, a corporation* and *Local Union 585, International Brotherhood of Electrical Workers, et al.*, 13 N. L. R. B., No. 28 (employee died prior to Board order; back pay ordered to be paid to employee's estate).

[22] See Third Annual Report, pp. 201–2.

[23] *Matter of Link Belt Company* and *Lodge 1604 of Amalgamated Association of Iron, Steel and Tin Workers of North America, et al.*, 12 N. L. R. B. 854, petition to review filed May 25, 1939 (C. C. A. 7).

[24] *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440, enforced *N. L. R. B.* v. *Crossett Lumber Company*, 102 F. (2d) 1003 (C. C. A. 8). The Board said:

"Some of the employees maintained homes in Crossett, or its immediate vicinity, where they lived with their families, and in going to other places to work, they incurred expenses such as for transportation, room, and board, which they would not have incurred

Work-relief payments as earnings are properly deductible from the amount of back pay required to make a discriminatorily discharged employee whole. The Board has held, however, that to permit the employer to retain such amounts would place the burden of the employer's unfair labor practices upon governmental relief agencies, and has therefore required employers, in deducting such amounts, to pay them over to the work-relief agency which supplied the funds for the project upon which the employee worked.[25]

These rules appear in all Board decisions involving a back pay order in substantially the following form:

By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company* and *United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects are not deductible as "net earnings," but, as provided below in the Order, shall be deducted and paid over to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.[26]

Since a back pay order is issued in order to effectuate the policies of the act, and is not a private right, "but in the interest of the public," [27] the Board has rejected the contentions that the amount of damage done by striking employees to the property of an employer should be computed and set off against the amount of back pay due from the employer [28] and that discharged employees are under an obligation to seek work elsewhere and thus mitigate the amount of back pay to be paid by the employer.[29]

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had they continued to work for the respondent and not been forced, by virtue of the respondent's unfair labor practices, to leave their homes. Moreover, many of the said employees were forced, by virtue of the respondent's unfair labor practices, to give up respondent-owned houses, and thereby incurred expenses which they would not have incurred except for the said unfair labor practices. It is this sort of extra expense to which reference is to be made in determining the net earnings of the employees. To the extent that all such expenses diminished the earnings of the employees whom we have found were discriminated against during the respective periods of discrimination, such earnings shall not be deducted in computing the loss of pay the said employees may have suffered."

[25] *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*, 9 N. L. R. B. 219, enforced as modified, *Republic Steel Corp.* v. *N. L. R. B.*, November 8, 1939 (C. C. A. 3). The Board said:

"Insofar as the employee receives remuneration for such work upon a relief project during periods when he would otherwise have been working for the respondent, it would not seem necessary, in restoring him to the status quo, that he be reimbursed in such amounts. Nevertheless, to hold that the losses accruing from the respondent's unfair labor practices must be borne by the government or governments financing the work-relief project would not effectuate the purposes of the Act."

Home-relief payments and unemployment compensation are not deducted at all from back pay either in the form of net earnings or as amounts to be paid to the governmental agency which made the payments. *Matter of Pennsylvania Furnace and Iron Company* and *Lodge No. 1328, International Association of Machinists*, 13 N. L. R. B., No. 7, enforced, *N. L R. B. v. Pennsylvania Furnance and Iron Co.*, July 5, 1939 (C. C. A. 3).

[26] The footnote first appeared in this form in *Matter of C. G. Conn, Ltd.*, and *Metal Polishers International Union, Local No. 77*, 10 N. L. R. B. 498, petition to review filed January 17, 1939 (C. C. A. 7). In some subsequent Board decisions, there have been some slight but immaterial variations in the footnote.

[27] *Agwilines, Inc.* v. *N. L. R. B.*, 87 F. (2d) 146 (C. C. A. 5) enforcing *Matter of Agwilines, Inc.* and *International Longshoremen's Association, Local No. 1402*, 2 N. L. R. B. 1.

[28] *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*, 9 N. L. R. B. 219, enforced as modified, *Republic Steel Corp.* v. *N. L. R. B.*, November 8, 1939 (C. C. A. 3). The Board said: "However proper such set-offs or recoupments might be in a controversy between private litigants over private rights, there is no basis for such a claim in a controversy, such as this, of a public character, where conformance is sought with the public policy of the United States, as expressed in a statute, and where those to whom the Board has awarded back pay are not private litigants in the cause."

[29] *Matter of Western Felt Works, a corporation* and *Textile Workers Organizing Committee, Western Felt Local*, 10 N. L. R. B. 407, enforced, *Western Felt Works* v. *N. L. R. B.*, March 25, 1939 (C. C. A. 7).

The Board in each case patterns the back-pay order to the circumstances of the case. Thus in certain cases, the Board has held that delay in the filing of the charges or in the proceedings of the Board should be considered in computing the amount of back pay to be paid by an employer. In *Matter of Inland Lime and Stone Company* and *Quarry Workers International Union of North America, Branch No. 259*,[30] the union filed charges 19 months and 11 months, respectively, after the discharges which the Board subsequently found to have been discriminatory. The Board, departing from its usual rule that back pay should run from the date of the discriminatory discharge, ordered that back pay should be computed only from the date the charges were filed.[31] A slight variation of this rule was applied in *Matter of Crowe Coal Company* and *United Mine Workers of America, District No. 14*.[32] In this case, the discriminatory discharges occurred in October 1935 but the union continued attempts to secure reinstatement of the employees through negotiations with the respondent until some time in November or December 1936. Charges were filed with the Board on May 4, 1937. The Board held that the discharged employees were entitled to back pay from the date of the discharge to the date of the last conference between the union and the respondent, and from the date of filing charges to the date of reinstatement pursuant to the Board's order.[33]

The Board, however, in the exercise of its discretion, will not make any deduction for delay, if under the circumstances of the case, the deduction appears unwarranted. Thus, in *Matter of Colorado Milling & Elevator Company* and *Denver Trades and Labor Assembly*,[34] the Board held that no deduction from back pay should be made where charges were filed in November 1935 but no complaint issued until February 1938 because the proceedings were delayed pending the result of litigation challenging the Board's right to proceed. The Board stated:

> The respondent is legally chargeable with knowledge of its commission of the unfair labor practices and could have taken appropriate action at any time thereafter to have remedied the consequences of its illegal conduct. It did not do so and cannot now validly urge that the discriminatorily discharged

[30] 8 N. L. R. B. 944.

[31] Cf. *Matter of C. G. Conn, Ltd.*, and *Metal Polishers International Union Local No. 77*, 10 N. L. R. B. 498, petition to review filed January 17, 1939 (C. C. A. 7), where the charges which had been filed in due time were withdrawn in August 1936 but reinstated again in May 1938. The Board held that there should be no back pay during the interval from August 1936 to May 1938.

[32] 9 N. L. R. B. 1149, enforced *N. L. R. B.* v. *Crowe Coal Co.*, 104 F. (2d) 633 (C. C. A. 8), cert. den., Oct. 9, 1939.

[33] The same rule was followed in *Matter of L. C. Smith & Corona Typewriters, Inc.*, and *International Metal Polishers, Buffers and Platers Union of North America*, 11 N. L. R. B. 1382.

In the *Crowe case*, the Circuit Court of Appeals in enforcing the Board's order said:

"It is observed that the act prescribes no time within which charges of unfair labor practices must be lodged. It certainly would not further the objects of the act to coerce the hasty filing of charges against employers by penalizing those employees who, although they may feel aggrieved by some action or inaction of their employer, take reasonable time for discussion, appeal, request, and other peaceful means of reconciliation or redress before they resort to charges. It is true that in this case the refusal to reinstate made by respondent in 1935 was in terms of finality. But it was wrongful. The court cannot hold as a matter of law that there was no ground for the United to make further effort or that it was required to file charges forthwith on the first refusal on penalty of forfeiting its member's rights to claim back pay or reinstatement. Such declaration of the law would inevitably stimulate many burdensome proceedings readily avoidable by taking a reasonable time. Undoubtedly cases may arise where time may be taken to enhance back-pay recovery. Such cases must be met when presented. There is no suggestion of delay used for any such wrongful purpose here. The decision of the Board to curtail the back pay, even in the absence of such motive but upon the conditions found, was sufficient caveat."

[34] 11 N. L. R. B. 66.

employees should be denied a full restoration of the status quo because of the lapse of time between the commission of the unfair labor practices and the issuance of the complaint.[35]

Employees are not awarded back pay during the period while voluntarily on strike.[36] The Board has extended this doctrine to cover employees who, although discriminatorily discharged, have later joined a strike. If these discriminatorily discharged employees are offered reinstatement unconditionally during the period of a strike but refuse such reinstatement, they will be considered to have joined the strikers and back pay which would otherwise accrue will cease as of the date of their refusal of the offer of reinstatement. They will not, however, forfeit their right to reinstatement on the same terms as other strikers.[37]

Similarly, although it is the regular rule of the Board to award back pay to locked-out employees from the date of the lock-out,[38] if these locked-out employees subsequently refuse an unconditional offer of reinstatement unless the employer cease his unfair labor practices, the locked-out employees will be considered as strikers from the date of their refusal of the offer of reinstatement, and back pay will cease as of the date of such refusal.[39] Conversely, if a striking employee is discharged because of union or other concerted activity he will be awarded back pay from the date of the notice of discharge.[40]

3. ORDERS IN CASES IN WHICH THE BOARD HAS FOUND THAT AN EMPLOYER HAS ENGAGED IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8 (5) OF THE ACT.

In cases where the Board has found that a respondent has engaged in unfair labor practices within the meaning of section 8 (5) of the act by refusing to enter into a signed agreement, the Board has ordered the respondent to bargain collectively with the union on request and if an agreement is reached, to place the terms of the agreement in writing. The order has taken the following form:

Upon request, bargain collectively with * * * [the labor organization involved] * * * as the exclusive representative of the * * * [employees in an appropriate unit] * * * in respect to rates of pay, wages, hours of em-

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[35] Compare *Matter of Cherry Cotton Mills* and *Local No. 1824, United Textile Workers of America*, 11 N. L. R. B. 478, where the case was transferred to the Board on March 30, 1936, and a decision issued on February 21, 1939. This delay was caused by numerous legal difficulties which arose in the course of the proceedings. The Board held, however, that no back pay should be paid for this period.

[36] See *infra*, p. 105.

[37] *Matter of Harter Corporation* and *International Assn. of Machinists*, 8 N. L. R. B. 391, modified and enforced as modified in *Harter Corporation v. N. L. R. B.*, 102 F. (2d) 989 (C. C. A. 6); see also *Matter of Elkland Leather Company, Inc.* and *National Leather Workers' Association, Local No. 37*, 8 N. L. R. B. 519, petition for enforcement filed July 20, 1939 (C. C. A. 3); *Matter of Horace G. Prettyman and Arthur J. Wiltse, copartners, doing business as the Ann Arbor Press* and *International Typographical Union*, 12 N. L. R. B. 640. However, where discriminatorily discharged employees are not offered reinstatement, they will be entitled to back pay during the period of the strike. The Board will not assume, in the absence of an unequivocal offer of reinstatement and an unequivocal refusal, that these discharged employees have joined the strikers. *Matter of Lindeman Power and Equipment Company* and *International Association of Machinists*, 11 N. L. R. B. 868.

[38] See Third Annual Report at p. 200.

[39] *Matter of Hemp & Company of Illinois, a corporation* and *Federal Labor Union, Local No. 21284, Macomb, Illinois*, 9 N. L. R. B. 449, petition for enforcement filed on or about May 11, 1939 (C. C. A. 7).

[40] *Matter of El Paso Electric Company, a Corporation* and *Local Union 585, International Brotherhood of Electrical Workers, et al.*, 13 N. L. R. B., No. 28, see *infra*, p. 104.

ployment, and other conditions of employment, and, if an understanding is reached on such matters, embody said understanding in a signed agreement.[41]

4. Orders in Cases in Which the Board Has Found That an Employer Has Engaged in Unfair Labor Practices Within the Meaning of Section 8 (1) of the Act

In addition to its general cease and desist order upon finding that an employer has infringed section 8 (1), the Board has frequently issued an order requiring the employer to cease and desist from specific acts, repugnant to section 8 (1), in which the employer has engaged.[42] Thus the Board has ordered an employer association to cease and desist from "combining, confederating or advising" with its members for the purpose of violating the rights guaranteed employees in section 7 of the act.[43] In *Matter of Asheville Hosiery Company* and *American Federation of Hosiery Workers*,[44] the employer was ordered to cease and desist from "permitting physical assaults on and threats of physical violence to employees in its plant for the purpose of discouraging membership in, or activities on behalf of" a labor organization. The Board has ordered an employer to cease and desist from interfering with the right of any person

in his entering upon and traversing the paths, roads, streets, or other ways of ingress and egress, public or private, in the town of Yancey, Kentucky, customarily used by the respondent's employees there residing and persons engaged in lawful transactions with them, for the purpose of consulting, conferring or advising with, talking to, meeting, or assisting, the respondent's employees or any of them, in regard to the rights of said employees under the Act to self-organization, to form, join, or assist labor organizations to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.[45]

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[41] See *Matter of Inland Steel Company* and *Steel Workers Organizing Committee, et al.*, 9 N. L. R. B. 783, petition to review filed August 30, 1939 (C. C. A. 7). See also *Matter of H. J. Heinz Company* and *Canning and Pickle Workers, Local Union No. 325, affiliated with Amalgamated Meat Cutters and Butcher Workmen of North America, American Federation of Labor*, 10 N. L. R. B. 963, petition to review filed January 16, 1939 (C. C. A. 6); *Matter of Sigmund Freisinger, doing business under the name and style of North River Yarn Dyers and Textile Workers Organizing Committee*, 10 N. L. R. B. 1043; *Matter of Bethlehem Shipbuilding Corporation, Limited* and *Industrial Union of Marine and Shipbuilding Workers of America; Local No. 5*, 11 N. L. R. B. 105, petition to review filed March 2, 1939 (C. C. A. 1); *Matter of Chesapeake Shoe Manufacturing Company* and *United Shoe Workers of America*, 12 N. L. R. B. 832; *Matter of Harry Schwartz Yarn Co., Inc., and Textile Workers Organizing Committee*, 12 N. L. R. B. 439; *Matter of Highland Park Manufacturing Co.* and *Textile Workers Organizing Committee*, 12 N. L. R. B. 1238.

[42] See Third Annual Report, p. 206.

[43] *Matter of Williams Coal Company* and *United Mine Workers of America, District No. 23*, 11 N. L. R. B. 579, petition for enforcement filed July 28, 1939 (C. C. A. 6).

[44] 11 N. L. R. B. 1365, petition for enforcement filed on or about June 29, 1939 (C. C. A. 4).

[45] *Matter of Harlan Fuel Company* and *United Mine Workers of America, District 19*, 8 N. L. R. B. 25. See p. 58, supra, for a discussion of this case. Cf. *Matter of West Kentucky Coal Company* and *United Mine Workers of America, District No. 23*, 10 N. L. R. B. 88, petition for enforcement filed May 29, 1939 (C. C. A. 6), where the Board ordered the respondent to cease and desist from:

"Denying to its employees who reside in houses owned by the respondent the right to have any person call at their homes for the purpose of consulting, conferring, or advising with, talking to, meeting, or assisting, the respondent's employees or any of them, in regard to the rights of said employees under the Act to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection."

and from

"Following or trailing any person, or in any other manner intimidating or interfering with the right of any person, in his use of the thoroughfares in the towns and camps located within the counties of Union, Webster, and Hopkins, Kentucky, for the purpose of consulting, conferring, or advising with, talking to, meeting, or assisting, the respondent's employees or any of them, in regard to the rights of said employees under the Act to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection."

Employers who have violated section 8 (1) by favoring one of two labor organizations have been ordered to cease and desist from recognizing the favored union "as the exclusive representative of its employees unless and until said labor organization is certified as such by the Board." [46]

Occasionally, the Board, upon finding that an employer has engaged in certain unfair labor practices within section 8 (1) has deemed it necessary to require the employer to take certain affirmative action to remedy the effects of the unfair labor practice and effectuate the policies of the act.[47] Thus the Board has ordered an employer, who permitted and encouraged assaults upon employees because of their union activity, to "instruct all its employees that physical assaults on and threats of physical violence to their fellow employees for the purpose of discouraging membership in, or activities on behalf of, American Federation of Hosiery Workers, or any other labor organization, will not be permitted in the plant at any time; and take effective action to enforce these instructions." [48]

5. Orders in Cases in Which the Board Has Found That a Strike Was Caused or Prolonged by an Employer's Unfair Labor Practices

The Board, upon finding that a strike was caused or prolonged, in whole or in part, by unfair labor practices of an employer, has continued to apply the principle that in such cases the ordinary right which the employer had to select its employees became "vulnerable," [49] and, accordingly, has ordered the employer in such cases to reinstate the striking employees, dismissing, if necessary to effect such reinstatement, all persons hired since the occurrence of the unfair labor practices to take the place of strikers.[50]

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[46] *Matter of Ward Baking Company* and *Committee for Industrial Organization*, 8 N. L. R. B. 558; *Matter of Mt. Vernon Car Manufacturing Company, a corporation* and *Local Lodge No. 1756, Amalgamated Association of Iron, Steel, and Tin Workers of North America, affiliated with the Committee for Industrial Organization*, 11 N. L. R. B. 500.

[47] See Third Annual Report, p. 207.

[48] *Matter of Asheville Hosiery Company* and *American Federation of Hosiery Workers*, 11 N. L. R. B. 1315, petition for enforcement filed on or about June 29, 1939 (C. C. A. 4).

[49] See Third Annual Report on p. 209; *Black Diamond S. S. Corp.* v. *N. L. R. B.* 94 F. (2d) 875 (C. C. A. 2) certiorari denied 304 U. S. 579, affirming *Matter of Black Diamond Steamship Corporation* and *Marine Engineers' Beneficial Association, Local No. 83*, 3 N. L. R. B. 84.

[50] See Third Annual Report at pp. 209–10; *Matter of Western Felt Works, a corporation*, and *Textile Workers Organizing Committee, Western Felt Local*, 10 N. L. R. B. 407, enforced, *Western Felt Works* v. *N. L. R. B.*, March 25, 1939 (C. C. A. 7) (the Board also ordered the reinstatement of employees who had been temporarily laid off prior to the strike, although such lay-off was not discriminatory, on the ground that these employees, still retaining their status as employees, joined the strike; and, were it not for the strike, an increase in production would have resulted in their reemployment); *Matter of Republic Steel Corporation*, and *Steel Workers Organizing Committee*, 9 N. L. R. B. 219, enforced as modified, *Republic Steel Corp.* v. *N. L. R. B.*, November 8, 1939, (C. C. A. 3) (the Board included in its order a requirement that the respondent offer reinstatement to striking employees as positions became available in any one of a number of plants owned and operated by the respondent, but directed that an emloyee could refuse an offer of reinstatement to any plant other than the one at which he had formerly worked, without thereby forfeiting his right to subsequent reinstatement).

See also *Matter of Reed & Prince Manufacturing Company* and *Steel Workers Organizing Committee of the C. I. O.*, 12 N. L. R. B. 944.

In *Matter of Stehli & Co., Inc.* and *Textile Workers Union of Lancaster, Pennsylvania, and Vicinity, Local No. 183*, 11 N. L. R. B. 1397, the employer had succeeded in breaking a strike of his employees by promising and giving those employees who first returned the better positions in the plant. The Board ordered that all striking employees should be returned to their former positions, if necessary displacing others who had been given these positions, saying:

"The strike having been caused and prolonged by the unfair labor practices of the respondent, the ordinary right which the respondent had to select its employees was 'vulnerable,' and its refusal to reinstate these 17 employees to their former positions was subject to such order as the Board, in effectuating the purposes and policies of the act, might make, directing the respondent to reinstate said employees; to dismiss persons hired since, and not in its employ at, the commencement of the strike, and to displace

Moreover, if unfair labor practice strikers apply for and are refused reinstatement the Board will order that these strikers receive back pay from the date of the refusal.[51] The basis for such order was stated as follows in *Matter of Western Felt Works, a corporation* and *Textile Workers Organizing Committee, Western Felt Local:*[52]

> At the time the striking employees offered to return to work, the question as to whether the respondent would itself reinstate employees whose work had ceased as a consequence of unfair labor practices or await an order of this Board requiring it to do so reposed entirely in the judgment of the respondent. Where, as here, employees who cease work as a consequence of unfair labor practices offer to return to work, without requiring as a condition that the employer cease the unfair labor practices which caused them to cease work, and the employer refuses to permit them to return to work, thereby depriving the employees of their jobs and attendant earnings until this Board issues a remedial order, we are of the opinion that the policies of the Act will best be effectuated by requiring that in addition to reinstatement, the employer pay back pay to the employees from the date on which they offered to return to work.

Further, if they have been discriminatorily discharged while out on strike, they will receive back pay from the date of such discriminatory discharge.[53]

Where there has been no refusal to reinstate or other discrimination against unfair labor practice strikers prior to the hearing, the Board, in ordering their reinstatement directs that these employees shall be paid back pay during a period beginning 5 days after the date of their application for reinstatement pursuant to the Board's order.[54]

6. Effect on Board Orders of Violent or Unlawful Conduct on the Part of Employees Who Were Discriminatorily Discharged or Who Went on Strike in Protest Against Unfair Labor Practices

As stated in the Third Annual Report, the Board does not condone violence or illegal conduct on the part of any party to a labor dispute; and in determining whether or not to order the reinstatement of employees who have engaged in violent or unlawful conduct, considers whether or not the reinstatement of such employees would effectuate the policies of the Act.[55] In *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*,[56] the Board articulated two

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and shift to other positions persons occupying the positions formerly held by these 17 employees and to redistribute its other employees on a nondiscriminatory basis, to such extent as necessary, for the purposes of making positions available for such reinstatement. * * *"

[51] *Matter of McKaig-Hatch, Inc.*, and *Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1139*, 10 N. L. R. B. 33; *Matter of Reed & Prince Manufacturing Company* and *Steel Workers Organizing Committee of the C. I. O.*, 12 N. L. R. B. 944.

[52] 10 N. L. R. B. 407, enforced *Western Felt Works* v. *N. L. R. B.*, March 25, 1939, (C. C. A. 7).

[53] *Matter of El Paso Electric Company, a corporation* and *Local Union 585, International Brotherhood of Electrical Workers et al.*, 13 N. L. R. B. No. 28.

[54] *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*, 9 N. L. R. B. 219, enforced as modified, *Republic Steel Corp.* v. *N. L. R. B.*, November 7, 1939 (C. C. A. 3); *Matter of Jack Schwab & Murray Schwab, individuals doing business under the firm name and style of Schwab & Schwab* and *Textile Workers Organizing Committee, C. I. O.*, 10 N. L. R. B. 1455; *Matter of Bennett-Hubbard Candy Company* and *Bakery & Confectionery Workers Local Union No. 25*, 11 N. L. R. B. 1090; *Matter of Lightner Publishing Corporation of Illinois* and *Chicago Printing Pressmen's Union No. 5, Chicago Typographical Union No. 16*, 12 N. L. R. B., 1255; *Matter of Brashear Freight Lines, Inc.* and *International Association of Machinists, District No. 9, affiliated with the American Federation of Labor*, 13 N. L. R. B., No. 25.

[55] See Third Annual Report, p. 211.

[56] 9 N. L. R. B. 219 enforced as modified November 8, 1939 (C. C. A. 3). The Board stated the following with respect to the question of proving violence in this connection: "We think also that the Board is entitled to rely upon the local law-enforcement agencies for proof of such matters. The record shows that the police and prosecuting authori-

criteria for ascertaining whether or not employees who had engaged in violence should be reinstated. The Board inquired first whether the unlawful conduct was such as to render the employees who were guilty thereof, unsuitable for further employment. The Board stated the following in this connection:

> It must be remembered that the acts of which the respondent complains were committed by strikers in the heat and turmoil of bitter industrial strife in which the threat of violence on the part of the respondent against the strikers was ever present and frequently carried into execution; that the strike was brought on fundamentally by the respondent's own unlawful acts; that the respondent had itself been guilty of brutal acts of violence in the period of organization preceding the strike; and that the respondent itself committed or was responsible for acts of violence during the strike far more serious than those attributed to the strikers in question.[57]

The Board also inquired whether reinstatement would tend to encourage violence in labor disputes and would not otherwise effectuate the policies of the Act:

> * * * We cannot conclude that the reinstatement of strikers in this situation will provide any material incentive to violence in future industrial conflict. Where passions are aroused by bitter industrial warfare the deterrent effects of a possible failure to achieve reinstatement by Board order at some future date after the conclusion of the strike will scarcely be a factor of significance in the amount of violence likely to occur. Furthermore, the primary control of such misconduct is and must be found in the police power of State and local authorities. In this case strikers guilty of misconduct have been prosecuted by the local authorities and have paid the penalty for such misconduct. The Act was not intended to regulate conduct subject to local police regulation but primarily to protect the right of self-organization and collective bargaining. Insofar as the discouragement of crime may be accomplished in this case without sacrificing the effectuation of the policy of the Act, we exercise our discretion in excluding from our order of reinstatement those employees whose crimes are insufficiently grave to disqualify them from reemployment. We think it evident, however, that the respondent's unfair labor practices should not be imperfectly remedied and that the important national policy of the Act, which is fulfilled by the reinstatement of strikers, should not be imperfectly effectuated, merely because the respondent's striking employees have violated other laws, where such violations have already been punished by the appropriate law-enforcement agencies and are not of such a character as to disqualify the strikers from reemployment.

Employees denied reinstatement had either pleaded or been found guilty of the possession or use of explosives or the malicious destruction of property. Employees reinstated had been found guilty of very minor crimes such as disorderly conduct and assembling together to do an unlawful act.

In *Matter of El Paso Electric Company, a corporation* and *Local Union 585, International Brotherhood of Electrical Workers et al*,[58] the Board held that employees who had committed sabotage against the respondent's property would be reinstated in those instances where

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ties of various cities were active throughout and after the strike. Numerous arrests were made and many convictions obtained. Under these circumstances the Board is inclined to feel that it can presume that any significant crime committed was investigated by the proper authorities and, if adequate evidence was found, was prosecuted by them. As a result, especially in view of the administrative difficulty of trying such collateral issues, the Board will not go into alleged acts of violence of individual strikers beyond accepting the offer of proof, and taking judicial notice, of convictions and pleas of guilty."

[57] *Compare Matter of Berkey and Gay Furniture Company* and *International Union, United Automobile Workers of America, Local 418*, 11 N. L. R. B. 282, petition for enforcement filed May 22, 1939 (C. C. A. 6): discriminatory discharge provoked a brawl with a foreman. The Board ordered reinstatement, stating:

"The respondent will not be permitted, under the circumstances, to set up the consequences of its own wrongful conduct as an excuse for failing to remedy the unfair labor practice engaged in by it."

[58] 13 N. L. R. B., No. 28.

the acts of sabotage had been expressly condoned by the employer. The Board stated that it would not, under the circumstances of the case, "adopt * * * a harsher criterion" than had been adopted by the respondent. The Board, however, did not order the reinstatement of employees who had committed acts of sabotage which were not condoned by the respondent. The Board, in this case, rejected the respondent's argument that the violence engaged in by some strikers should be attributed to all strikers and all strikers denied reinstatement and stated:

> Acts which some strikers may have committed during a strike do not disqualify the other strikers from reinstatement. The Norris-LaGuardia Act provides that no member of an organization participating in a labor dispute shall be held responsible in any court of the United States for the unlawful acts of individual members except upon clear proof of actual participation in, or actual authorization of such acts, or of ratification of such acts, after actual knowledge thereof. We are of the opinion that the Board should be guided by this policy.

In *Matter of Reed & Prince Manufacturing Company* and *Steel Workers Organizing Committee of the C. I. O.*,[59] the Board required the reinstatement of unfair labor practice strikers, stating:

> We do not feel that the fact that by Massachusetts law a strike to enforce a demand for an arbitration clause is tortious should alter the situation in this respect. The situation is very different from that in the case of the *National Labor Relations Board v. Fansteel Metallurgical Corporation*[60] in which the Court held that an employer could properly discharge employees because they have seized and held the plant of the employer and have participated in violence and destruction of property. We do not think that the holding of the Supreme Court in that case was intended to apply to a situation such as this where the action of strikers was peaceful and involved no violence. The strike in the present case was at most a civil tort from which the respondent had adequate protection in the courts of Massachusetts. It cannot be said seriously that engaging in this strike was of sufficient gravity to reflect upon the personal character of the four employees, certainly as far as their suitability for employment was concerned.

7. Orders Requiring an Employer Not to Give Effect to Agreements

With respect to contracts which constitute or are part of the unfair labor practices of an employer, the Board has continued to issue the orders described in the Third Annual Report.[61]

8. Effect on Board Orders of Agreements Not to Proceed Against an Employer

Pursuant to the Board's policy of giving effect to agreements which effectuate the policies of the act,[62] the Board will respect an agreement between an employer and an agent of the Board which purports to compromise unfair labor practices. Thus in *Matter of Shenandoah-Dives Mining Company* and *International Union of Mine, Mill & Smelter Workers*,[63] the Board gave effect to such an agreement between a Regional Director of the Board and an employer, saying:

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[59] 12 N. L. R. B. 944.
[60] *Fansteel Metallurgical Corporation* v. *N. L. R. B.*, 306 U. S. 240, modifying and aff'g 98 F. (2d) 375 (C. C. A. 7), setting aside *Matter of Fansteel Metallurgical Corporation* and *Amalgamated Association of Iron, Steel and Tin Workers of North America, Local 66*, 5 N. L. R. B. 930.
[61] At pp. 212–213.
[62] See Third Annual Report at p. 213.
[63] 11 N. L. R. B. 885.

Although we do not agree that the compromise agreement estops the Board from proceeding herein, we believe that effective administration of the Act requires that the Board's agents have the respect and confidence of labor organizations and employers with whom their work brings them in contact. Repudiation of agreements entered into and relied on in good faith necessarily impairs such respect and confidence * * * We believe the policies of the Act will best be effectuated by giving effect to the agreement and refraining from consideration of the alleged unfair labor practices.[64]

9. Precautionary Orders

Section 10(c) authorizes the Board, upon finding that an employer has engaged in unfair labor practices, to order the employer "to take such affirmative action * * * as will effectuate the policies of this act." Accordingly, if an employer commits unfair labor practices from which it is clear that he is predisposed to commit certain other unfair labor practices, the Board, in order to effectuate the policies of the act, has adapted the order to the situation calling for relief. Thus in *Matter of West Kentucky Coal Company* and *United Mine Workers of America, District No. 23*,[65] the employer was found to have engaged in numerous unfair labor practices within the meaning of section 8 (1) (2) and (3) of the act, although not within the meaning of section 8 (5). The Board said:

* * * The only reason for our not finding that the respondent refused to bargain collectively with the Union within the meaning of Section 8 (5) of the Act is that the evidence does not establish that the Union represented a majority of the employees in the appropriate unit. The evidence is insufficient in this respect because the Union feared to disclose the names of its members lest the respondent discharge them. The respondent's attitude toward the Union is one of pronounced and aggressive hostility. Its refusal to meet with the Union was absolute. We are convinced from the record that it was the respondent's intention not to bargain with the Union, whether or not it represented a majority of the employees, and that this intention still persists.

Since we are directing that an election be conducted among the employees in the appropriate unit to determine whether or not they desire to be represented by the Union, and since the respondent is predisposed to commit unfair labor practices, we are of the opinion that the policies of the Act will best be effectuated by requiring the respondent to bargain collectively with the Union upon request, in the event that the Union is designated in the election by a majority of the employees as their representative for purposes of collective bargaining, and is certified by this Board as the exclusive representative of all employees in the appropriate unit for such purposes.[66]

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[64] Also *Matter of Link Belt Company* and *Lodge 160½ of Amalgamated Association of Iron, Steel and Tin Workers of North America et al.*, 12 N. L. R. B. 854, petition to review filed May 25, 1939 (C. C. A. 7); *Matter of Godchaux Sugars, Inc.* and *Sugar Mill Workers' Union, Locals No. 2177 and No. 2188, affiliated with the American Federation of Labor*, 12 N. L. R. B. 568 (the employer consented to an election and the Regional Director agreed not to press charges filed by a labor organization); cf. *Matter of Shuron Optical Company, Inc.*, and *Albert L. Ludrick*, 11 N. L. R. B. 859 (the employer and the labor organization entered into an agreement purporting to compromise unfair labor practices; pursuant thereto the union requested permission of the Regional Director to withdraw charges filed; the Regional Director, in ignorance of the agreement, granted the union's request; the Board found that under these circumstances the Regional Director had not consented to or approved the agreement, and accordingly, considered the charges after they were filed by an employee who alleged that he had been discriminatorily discharged).

[65] 10 N. L. R. B. 88, petition for enforcement filed May 29, 1939 (C. C. A. 6).

[66] In *Matter of Continental Oil Company* and *Oil Workers International Union*, 12 N. L. R. B. 789, petition to review filed May 25, 1939 (C. C. A. 10), the Board found that the respondent had refused to bargain collectively with the union with respect to two appropriate units, but that with respect to a third the record failed to show a majority for the union at the time of an alleged refusal to bargain. The Board said:

"Since the respondent has in two instances violated Section 8 (5) of the Act, and in another has evidenced a similar attitude of noncompliance, we believe that the policies of the Act will best be effectuated by requiring the respondent to bargain collectively with the Union upon request as the representative of the employees of the respondent in the appropriate unit at Salt Creek Field, in the event that the Union is designated as bargaining representative by a majority of such employees."

In another case, the Board found that the respondent had engaged in unfair labor practices through the discharge and lay-offs of a number of employees, but dismissed the allegation of discrimination as to four other employees. The Board ordered the respondent to place these four employees upon a preferential list because "* * * in view of the respondent's unfair labor practices as set forth * * * above, there is grave danger that the respondent will not reemploy these four individuals even if their former or substantially equivalent positions are open. In order to effectuate the policies of the Act, we will require the respondent to place [these four employees] * * * upon a preferential list for employment as it arises." [67]

10. Requirements That an Employer Publicize Terms of Board Orders Among Employees

The Board requires an employer who has engaged in unfair labor practices to publicize the terms of the Board order against him among his employees.[68] The exact wording of the notice which the employer is ordered to post in his place of business or to communicate to individual employees necessarily varies somewhat from case to case. Although the Board formerly required that posted notices remain posted for at least 30 consecutive days,[69] the period now normally required is 60 days.[70]

I. MISCELLANEOUS

This section deals with various problems of pleading, practice and procedure which have been raised and discussed in the Board's decisions.

Since the function of the charges, upon which Board complaints are issued, is to call the attention of the Board to the fact that unfair labor practices are alleged to have been committed, the Board has held that a respondent is not denied a fair hearing if he is not furnished with a copy of the charge, since service upon him of a complaint gives him full notice of all issues to be tried.[71]

Although not required by the act,[72] the Board has adopted the practice of serving a copy of the complaint upon an allegedly company-dominated organization.[73] Moreover, the Board requires that whenever any contract is put in issue by a complaint, any labor

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[67] *Matter of American Numbering Machine Company* and *International Association of Machinists, District #15*, 10 N. L. R. B. 536; see also *Matter of Luckenbach Stemship Company, Inc.*, and *Maritime Office Employees Association, International Longshoremen and Warehousemen's Union, Local 1-44*, 12 N. L. R. B. 1333.

[68] See Third Annual Report at p. 214

[69] *Ibid.*

[70] For example, *Matter of Sigmund Freisinger, Doing Business under the name and style of North River Yarn Dyers* and *Textile Workers Organizing Committee*; 10 N. L. R. B. 1043.

[71] *Matter of L. C. Smith & Corona Typewriters, Inc.*, and *International Metal Polishers, Buffers and Platers Union of North America*, 11 N. L. R. B. 1382. The Rules and Regulations—Series 2, recently issued by the Board, provide for the service of a complaint and a copy of the charge upon which the complaint is based.

[72] *N. L. R. B. v. Pennsylvania Greyhound Lines, Inc., et al.*, 303 U. S. 261, reversing 91 F. (2d) 178 (C. C. A. 3), and enforcing *Matter of Pennsylvania Greyhound Lines, Inc., et al., and Local Division No. 1063 of The Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America*, 1 N. L. R. B. 1. See also *Matter of Armour & Company* and *Packing House Workers, Local 347*, 8 N. L. R. B. 1100, petition to review filed October 1, 1938 (C. C. A. 7).

[73] National Labor Relations Board Rules and Regulations—Series 2, Article II, Section 5.

organization which is a party to such contract but not alleged to be company-dominated must be made a party to the proceeding.[76]

Since the act contemplates that cases will be handled speedily, the Board follows settled judicial tradition and refuses to reopen the record to admit evidence available at the time of the hearing, but which the party requesting reopening had failed to introduce, although afforded full opportunity to do so.[77] Similarly, a request for a continuance will be denied unless supported by a substantial reason. Thus in *Matter of Ronni Parfum Inc. et al.* and *United Mine Workers of America, District No. 50, Chemical Division, et al.*,[78] the respondent requested a continuance on the ground that its two principal witnesses had made arrangements for a vacation in Florida. The Trial Examiner denied this motion, whereupon counsel for the respondent withdrew from the hearing. The hearing nevertheless proceeded. The Board held that denial of the continuance was proper and stated:

> It is plain here that there could have been no emergency to justify the absence of the respondent's principal witnesses since both trips were admittedly arranged "a long time prior to December 1, 1937" [the approximate date of the hearing]. Moreover, ample notice of the hearing was given to the respondents. In the absence of an adequate showing of substantial cause, private convenience must accommodate itself to public necessity.

In order properly to administer the act, the Board requires that its hearings be conducted in orderly fashion. In *Matter of Weirton Steel Company* and *Steel Workers Organizing Committee*,[79] the Trial Examiner excluded the respondent's attorney for contemptuous conduct. On appeal from this ruling, the Board, after hearing testimony and oral argument, found that counsel had been guilty of contemptuous conduct and held that the exclusion was proper and did not deprive the respondent of due process of law. The Board stated:

> There is no question here of punishment for contempt of court, or of disciplinary proceedings looking to the disbarment of an attorney. The Trial Examiner's ruling simply applies a rule made and issued by the Board pursuant to statutory authority. The rule provides: "Contemptuous conduct at any hearing before a Trial Examiner or before the Board shall be ground for exclusion from the hearing."[80] It is a reasonable and necessary rule. Exercise of the Board's functions requires that numerous hearings be held before Trial Examiners designated by it to conduct them. The rule intends that in the interest of orderly and expeditious hearings contemptuous persons may be excluded. It applies to lawyers and to laymen alike. Its purpose is not to punish offenses against the Board's dignity, but to assure and defend the control of the Board's hearings

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[76] National Labor Relations Board Rules and Regulations—Series 2, Article II, Section 5, provides in part: "Whenever any labor organization, not the subject of any 8 (2) allegation in the complaint, is a party to any contract with the respondent the legality of which is put in issue by any allegation of the complaint, such labor organization shall be made a party to the proceeding." See *Matter of Ward Baking Company* and *Committee for Industrial Organization*, 8 N. L. R. B. 558. Cf. *Consolidated Edison Co. et al.* v. *N. L. R. B. et al.*, 305 U. S. 197, aff'g as modified, 95 F. (2d) 390 (C. C. A. 2), enforcing *Matter of Consolidated Edison Company of New York, Inc., et al., and United Electrical and Radio Workers of America, affiliated with the Committee for Industrial Organization*, 4 N. L. R. B. 71.

[77] *Matter of Republic Steel Corporation* and *Steel Workers Organizing Committee*, 9 N. L. R. B. 219, enforced as modified November 8, 1939 (C. C. A. 3); *Matter of Consumers' Power Company, a corporation*, and *Local No. 740, United Electrical, Radio, and Machine Workers of America*, 9 N. L. R. B. 701, petition to review filed January 4, 1939 (C. C. A. 6).

[78] 8 N. L. R. B. 323, enforced *N. L. R. B.* v. *Ronni Parfum, Inc.*, 104 F. (2d) 1017 (C. C. A. 2).

[79] 8 N. L. R. B. 581.

[80] This is Article II, Section 31, of National Labor Relations Board Rules and Regulations—Series 2.

by its agents. When challenged by contemptuous conduct during hearings, the Board, lacking power to punish for contempt, must have and does have the elementary power to exclude the guilty individual or individuals.

In this case, the respondent was also represented by several other attorneys. The Board, in affirming the exclusion, directed that the hearing be adjourned, "to enable the respondent to retain other counsel, or otherwise to prepare to resume the presentation of its defense."

If the conduct of the Trial Examiner at a hearing results in a denial of a fair hearing, the Board will set aside the entire record and order that a new hearing be held. The Board has so ordered in one case where a statement of the Trial Examiner raised an implication of bias against the respondent,[81] and in two others where the Trial Examiner erroneously excluded evidence which the Board found was "competent, relevant, and material to the issues." [82]

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[81] *Matter of Express Publishing Company* and *Mailers Local Union No. 41*, 8 N. L. R. B. 162. The evidence of bias on the part of the Trial Examiner was found in a statement by him that he might be influenced by an editorial attacking the Board which had appeared in a newspaper published by the respondent.

[82] *Matter of Owens-Illinois Glass Company* and *Federation of Flat Glass Workers of America*, 11 N. L. R. B. 38; *Matter of Bercut-Richards Packing Co., et al*, and *United Cannery, Agricultural, Packing and Allied Workers of America*, 13 N. L. R. B., No. 14.

VIII. JURISDICTION

The Board's jurisdiction, as established in the *Jones & Laughlin* and companion cases,[1] extends to the prevention and rectification of unfair labor practices occurring in industries the interruption of which by industrial strife would lead to interference with or diversions of the free flow of interstate or foreign commerce. During the past fiscal year efforts were made to persuade the courts to engraft several qualifications upon these principles.

In the first place it was argued that, if the intrastate activities of an employer outweigh his interstate activities in volume or importance, his entire business is immune from regulation. The Supreme Court's rejection of this contention in *Santa Cruz Fruit Packing Co.* v. *N. L. R. B.*, 303 U. S. 453 [2] was reaffirmed in *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 221, and was followed by the Fourth Circuit in *N. L. R. B.* v. *A. S. Abell Co.*, 97 F. (2d) 951, 954.

It was further urged upon the courts that an employer's operations must be large enough to be of national importance in order to fall within the ambit of the Act. This view also was rejected by the Supreme Court. In *N. L. R. B.* v. *Fainblatt*, 306 U. S. 606–7, the Court declared:

> The power of Congress to regulate interstate commerce is plenary and extends to all such commerce be it great or small * * *
>
> The language of the National Labor Relations Act seems to make it plain that Congress has set no restrictions upon the jurisdiction of the Board to be determined or fixed exclusively by reference to the volume of interstate commerce involved. * * * We can perceive no basis for inferring any intention of Congress to make the operation of the Act depend on any particular volume of commerce affected more than that to which courts would apply the maxim *de minimis*.
>
> There are not a few industries in the United States which, though conducted by relatively small units, contribute in the aggregate a vast volume of interstate commerce.

This holding was subsequently relied on by the Eighth Circuit in holding that the Board had jurisdiction over a coal mine producing only 267,495 tons annually, less than 85,000 tons of which were disposed of to instrumentalities of interstate commerce and to out-of-state customers. *N. L. R. B.* v. *Crowe Coal Co.*, 104 F. (2d) 633 (C. C. A. 8), certiorari denied, October 9, 1939.

Another limiting test rejected by the courts during the year related to the question of title to goods manufactured. In *N. L. R. B.* v. *Fainblatt*, 306 U. S. 601, 608, it was contended that a local manufacturer who merely processed goods owned by others was beyond the reach of Congressional power. The Supreme Court held:

> We cannot say, other things being equal, that the tendency [to obstruct shipments in interstate commerce] differs in kind, quantity or effect merely because the merchandise which the manufacturer ships, instead of being his own, is that of the consignee or his customers in other states.

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[1] *N. L. R. B.* v. *Jones & Laughlin Steel Corp.*, 301 U. S. 1; *N. L. R. B.* v. *Friedman-Harry Marks Clothing Co.*, 301 U. S. 58; *N. L. R. B.* v. *Fruehauf Trailer Co.*, 301 U. S. 49.

[2] See the Board's Third Annual Report, p. 217.

This result had earlier been reached in a holding of the Second Circuit.[3]

It was furthermore twice held by the Fourth Circuit that a substantial inflow of materials through the channels of interstate commerce is, by itself, sufficient to justify an exercise of Congressional power over the employer, irrespective of the destination of the finished product. *N. L. R. B.* v. *A. S. Abell Co.*, 97 F. (2d) 951, 954; *Newport News Shipbuilding & Dry Dock Co.* v. *N. L. R. B.*, 101 F. (2d) 841, 843, reversed as to other issues and Board order enforced in full, U. S. Supreme Court, December 4, 1939.

Perhaps the most important jurisdictional decision of the year was that of the Supreme Court in *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 219–22. This case concerned a public utility system located in the New York City area and entirely within the State of New York. However, the system obtained the bulk of its raw materials from outside the state and supplied energy to a multitude of enterprises in New York which were engaged in interstate and foreign commerce. Without determining whether the inflow of materials was a basis of jurisdiction, the Supreme Court held that the close relation between the utilities and the enterprises supplied was adequate to establish the Board's jurisdiction. The Court, furthermore, made it clear that the passage by the State of New York of legislation similar to the National Labor Relations Act did not override the paramount federal power as exercised in the Act. 305 U. S., at 223–4.

In *N. L. R. B.* v. *Idaho-Maryland Mines Corp.*, 98 F. (2d) 129, on the other hand, the Ninth Circuit held that the Board had no jurisdiction over the operations of a gold mining corporation which obtained its necessary equipment from dealers inside the state and which disposed of its product either to local refineries or to the United States Mint, also located within the same state. Although the equipment in question had its origin in other states and the gold output, after refining at the Mint, moved to destinations outside the state, the Court held that these transactions were not closely enough related to the company's mining operations to bring the latter within the reach of the Federal commerce power. It likewise rejected the Board's view that jurisdiction could be rested upon the fact that the gold which the company produces performs an important function in the nation's monetary system and commercial life.[4]

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[3] *N. L. R. B.* v. *Hopwood Retinning Co.*, 98 F. (2d) 97, 99–100 (C. C. A. 2).

[4] While the Board did not petition for a writ of certiorari in this case, it believes that the jurisdictional issues involved are such as should ultimately be determined by the Supreme Court.

IX. LITIGATION

The flood of injunction cases which impeded the Board's work during previous years has entirely subsided, only one such case being recorded during the fiscal year.[1] Accordingly, during the fiscal year covered by this report, the Board's litigation was confined primarily to cases involving the enforcement or review of its orders in unfair labor practice cases under the procedure provided by section 10 of the act. As might be expected with the expansion of its activities, enforcement and review have increased over preceding years, a total of 43 final decisions having been rendered in such cases during the fiscal year by the various Circuit Courts of Appeals and the Supreme Court of the United States. Despite this increase of litigated cases the tendency toward settlement of contested cases through the entry of consent decrees in the Circuit Courts of Appeals should be remarked. The current report lists the entry of 147 such decrees as contrasted with 11 listed in the Third Annual Report.[2]

A. ENFORCEMENT AND REVIEW

Cases involving orders of the Board come before the Circuit Courts of Appeals, upon petition of the Board under section 10 (e) of the act or upon petition of any person aggrieved under section 10(f). The filing of either petition invokes the reviewing jurisdiction of the Court as defined in the Act and the applicable decisions. In the appropriate exercise of its reviewing functions the Court in either case has power to enforce, modify and enforce as modified, or to set aside the order. Below are briefly summarized those cases decided during the present fiscal year which arose as a result of the filing of either type of petition. A discussion of the principles established by the opinions in these cases will be found in Section C.

1. Supreme Court Cases

Six cases involving the Board were decided by the Supreme Court during the present fiscal year. In one the Board's order was sustained in full, in two the Board's order was modified, and in two others its order was set aside. These decisions of the Supreme Court are summarized below. The sixth case, *Ford Motor Co.* v. *N. L. R. B.*, 305 U. S. 364, involved the question of remand to the Board to set aside its order and is discussed elsewhere.[3]

N. L. R. B. v. *Columbian Enameling and Stamping Co.*, 306 U. S. 292, affirming 96 F. (2d) 948 (C. C. A. 7), setting aside *Matter of Columbian Enameling and Stamping Co.* and *Enameling & Stamp-*

[1] See p. 146.
[2] Third Annual Report, p. 238.
[3] Miscellaneous Court Proceedings, p. 125.

ing Mill Employees Union, No. 19694, 1 N. L. R. B. 181. In this case, the lower court had set aside a Board order, based upon findings of a refusal to bargain during a strike, requiring the company to reinstate the striking employees and to bargain with their representatives. The Supreme Court held, although the circuit court of appeals had not, that there was insufficient evidence to indicate that the company had been informed of the union's attempt to bargain with it upon the date in question, and because of this defect in proof affirmed the decision below, which was based upon other grounds.

Consolidated Edison Co. v. *N. L. R. B.*, 305 U. S. 197, affirming as modified, 95 F. (2d) 390 (C. C. A. 2), enforcing *Matter of Consolidated Edison Co. of N. Y., Inc., et al.* and *United Electrical & Radio Workers of Amer.*, 4 N. L. R. B. 71. The utility system involved in this case operates public utilities located in the New York City area and entirely within the State of New York. However, the system obtains the bulk of its raw materials from without the State, and supplies energy to a multitude of enterprises engaged in interstate and foreign commerce. The Board found that it had discharged employees for their union activity, had engaged in industrial espionage, and had attempted to impose a preferred union upon its employees as their bargaining agent. The Supreme Court's decision upholding the Board's jurisdiction is one of the most important in recent years. The Court enforced all provisions of the order except those which required the abrogation of contracts between the company and the preferred union. These latter provisions of the order, which had been upheld by the circuit court of appeals, were set aside upon the ground that the validity of the contracts, not illegal in themselves, had not properly been placed in issue and that the labor organizations which were parties to the contracts had not been given adequate notice of the proceedings.

N. L. R. B. v. *Fainblatt*, 306 U. S. 601, reversing 98 F. (2d) 615 (C. C. A. 3), and enforcing *Matter of Benjamin Fainblatt and Marjorie Fainblatt, doing business as Somerville Mfg. Co. and Somerset Mfg. Co. and Int. Ladies' Garment Workers' Union, Local No. 149*, 1 N. L. R. B. 864, 4 N. L. R. B. 596. The Board found here that the company, a small "contract" operator engaged in processing goods belonging to others but shipped across State lines, had sought to curb organization of its employees through discriminatory discharges of Union members and other antiunion measures. The circuit court sustained these findings but refused on jurisdictional grounds to enforce the Board's order. The Supreme Court reversed the lower court, holding that the Board had jurisdiction even though the company was not itself engaged in interstate commerce and was of relatively small size.

Fansteel Metallurgical Corp. v. *N. L. R. B.*, 306 U. S. 240, reversing in part, 98 F. (2d) 375 (C. C. A. 7), setting aside *Matter of Fansteel Metallurgical Corp. and Amal. Ass'n of Iron, Steel and Tin Workers of No. Amer., Local 66*, 5 N. L. R. B. 930. In this case the Board found that the company attempted to prevent the organization of its employees by engaging in industrial espionage, the attempted formation of a company union and other antiunion activities. When the company refused to bargain with the authorized representative of its employees, a "sit down" strike occurred. The workers were dis-

charged and later ejected from the factory after violent resistance. Upon resumption of activities a second company-dominated union was formed. Reversing the lower court, which had set aside the entire order, the Supreme Court affirmed the Board's findings as to the unfair labor practices of the company and enforced the disestablishment and the general cease and desist provisions of the order. The Supreme Court denied reinstatement to the strikers, holding that this would not effectuate the policies of the act, in view of their seizure and retention of possession of the factory. The bargaining section was also set aside on the ground that the replacement of the discharged strikers destroyed the union's majority upon resumption of operations.

N. L. R. B. v. *Sands Mfg. Co.*, 306 U. S. 332, affirming 96 F. (2d) 721, (C. C. A. 6), setting aside *Matter of Sands Mfg. Co.* and *Mechanics Educational Society of Amer.*, 1 N. L. R. B. 546. Here the Board found that the company and the union had bargained to an impassee concerning the interpretation of their contract. After a brief shutdown, which the company asserted was caused by union demands in breach of the contract, the plant was reopened with members of a second union. Thereafter the first union asked and was denied a bargaining conference. The Supreme Court affirmed a lower court decision which set aside the Board's order, holding that the employees had been justifiably discharged for breach of contract, and that there was no violation of the act in refusing to bargain with the union as it had lost its majority status, following the impasse, due to a valid replacement of the discharged employees.

2. Circuit Court of Appeals Cases

During the present fiscal year 38 cases were decided by the several circuit courts of appeals which involved petitions to enforce or set aside orders of the Board. Two of the cases, *N. L. R. B.* v. *Fainblatt, et al.* and *Fansteel Metallurgical Corp.* v. *N. L. R. B.* were subsequently reviewed by the Supreme Court and have been considered above. In the balance of the cases orders of the Board were sustained in full in 12 instances, modified and enforced in 17, and were set aside in the remaining 9 cases. These decisions of the circuit courts (listed *infra*, p. 139) are summarized in the succeeding pages.

SECOND CIRCUIT

Ballston-Stillwater Knitting Co., Inc. v. *N. L. R. B.*, 98 F. (2d) 758, setting aside *Matter of Ballston-Stillwater Knitting Co., Inc.* and *Textile Workers Org. Com.*, 6 N. L. R. B. 470. In this case the Court set aside an order of the Board disestablishing an "inside" union, principally on the ground that the leaders in its organization were not of supervisory status. Reinstatement provisions of the order were also set aside.

N. L. R. B. v. *Hopwood Retinning Co., Inc. and Monarch Retinning Co., Inc.*, 98 F. (2d) 97, enforcing as modified, *Matter of Hopwood Retinning Co., Inc., and Monarch Retinning Co., Inc.*, and *Metal Polishers, Buffers, Platers and Helpers Int. Union Local No. 8, and Teamsters Union, Local No. 584*, 4 N. L. R. B. 922. In this case the Board found that the Hopwood company locked out its em-

ployees after refusing to bargain with their representatives. Upon their refusal to return to work under illegal individual employment contracts the Hopwood firm removed to another State where the Monarch concern was organized to continue its operations. The Board's order, modified only as to a provision relating to employment of an individual for the purpose of evading the Act, was enforced against the Hopwood firm which was directed to secure the cooperation of its agent Monarch if necessary to compliance. Subsequently the Court held both companies and the president of the Hopwood Co. in contempt for failure to comply with its decree. *N. L. R. B.* v. *Hopwood Retinning Co., Inc. and Monarch Retinning Co., Inc.*, 104 F. (2d) 302.

N. L. R. B. v. *National Licorice Co.*, 104 F. (2d) 655, enforcing as modified, *Matter of National Licorice Co.* and *Bakery and Conf. Workers Int. Union of Amer., Local Union 405, Greater N. Y. and Vicinity*, 7 N. L. R. B. 537.[4] Here the Board found that the company urged its employees to abandon the union which they had selected as their representative and suggested individual bargaining instead. A strike followed and the company assisted in the formation of a "collective bargaining committee" and induced the employees to sign individual employment contracts giving the company the right to discharge for any reason. The Court enforced the Board's order requiring the disestablishment of this "committee," and the abrogation of the individual contracts, but withheld enforcement of the bargaining provisions of the order pending an election to determine whether the union, whose organization the Court held was only tentative in form, had retained its majority status.

In *N. L. R. B.* v. *Ronni Parfum, Inc. and Ey-Teb Sales Corp.*, 104 F. (2d) 1017, enforcing *Matter of Ronni Parfum, Inc., et al.* and *United Mine Workers of Amer., District No. 50, Chemical Div.*, 8 N. L. R. B. 323. The Board found here that the company refused to bargain with the representatives of its employees and discharged several of them because of their union activities. In addition the Board found that the company formed a company-dominated union and exacted illegal individual contracts of employment from each of its employees. In a *per curiam* decision the Court granted full enforcement to the Board's order remedying these unfair labor practices.

THIRD CIRCUIT [5]

N. L. R. B. v. *Fashion Piece Dye Works Inc.*, 100 F. (2d) 304, enforcing *Matter of Fashion Piece Dye Works, Inc.* and *Fed. of Silk and Rayon Dyers and Finishers of Amer.*, 1 N. L. R. B. 285, 6 N. L. R. B. 274. Here several employees were summarily discharged after joining a union and a brother of one was dismissed and told to ask his brother for the reason. Upon this and other evidence of discrimination, the Board ordered reinstatement, with back pay, of these employees. The Court enforced the order without modification.

N. L. R. B. v. *Stackpole Carbon Co.*, 105 F. (2d) 167, enforcing *Matter of Stackpole Carbon Co.* and *United Electrical & Radio*

[4] Certiorari granted, Oct. 9, 1939.

[5] In view of the Supreme Court decision in *N. L. R. B.* v. *Fainblatt, et al.*, summarized on p. 114, a discussion of the Circuit Court decision is omitted.

Workers of Amer., Local No. 502, 6 N. L. R. B. 171. The Court here sustained findings of the Board that respondent had formed a company union in opposition to a nationally affiliated union then active among its employees. Following recognition and the granting of a contract to this organization, union members went out on strike. With the exception of a modification consented to by the Board, the Court enforced the Board's order requiring the company to disestablish the dominated organization and to abrogate a contract with it, and to reinstate strikers (with back pay if application for employment were denied). Rehearing was denied June 30, 1939.[6]

FOURTH CIRCUIT

N. L. R. B. v. *A. S. Abell Co.*, 97 F. (2d) 951, enforcing as modified *Matter of A. S. Abell Co.* and *Int. Printing and Pressmen's Union, Baltimore Branch, Baltimore Web Pressmen's Union, No. 31*, 5 N. L. R. B. 644. Here the Board found that the company, publisher of the Baltimore Sun papers, attempted to discourage the union activities of its employees by anti-union statements and actions on the part of its superintendent. The Court enforced the Board's order insofar as it required respondent to refrain from interfering with the rights of its employees under the act, but modified the order in respect to disestablishment of a "press room committee" and the form of notice ordered posted.

N. L. R. B. v. *Eagle Mfg. Co.*, 99 F. (2d) 930, enforcing as modified, *Matter of Eagle Mfg. Co.* and *Steel Workers Org. Com.*, 6 N. L. R. B. 492. In this case the Board found that the company attempted to control the form of self-organization of its employees by establishing a company union, installing one of its foremen as president, and entering into a contract with the new organization. The Court enforced an order of the Board, modified only as to the form of notice ordered posted, which required the company to disestablish the company-dominated organization and to cease giving effect to its contract with it.

Burlington Dyeing and Finishing Co. v. *N. L. R. B.*, 104 F. (2d) 736, enforcing as modified, *Matter of Burlington Dyeing and Fnishing Co.* and *Textile Workers Org. Com.*, 10 N. L. R. B. 1. Here the Board's order was enforced as to reinstatement of one employee found to have been discharged for union activities but was set aside as to a second. The notice provision was modified in accordance with fourth circuit practice.

Mooresville Cotton Mills v. *N. L. R. B.*, 94 F. (2d) 61, enforcing as modified, *Matter of Mooresville Cotton Mills* and *Local No. 1221, United Textile Workers of Amer.*, 2 N. L. R. B. 952. In this case the Board found that the company had discriminated against eight strikers in rehiring employees upon resumption of operations after a strike. The Court sustained the Board's findings, but modified its order in respect to four employees because of evidence that they had obtained other employment after the discrimination. Subsequently the case was remanded to the Board for a further hearing on the question whether the employment so obtained was equivalent to that

[6] Certiorari denied Nov. 6, 1939.

which they formerly had had with the company.[7] The notice provision of the order was also modified. *Mooresville Cotton Mills* v. *N. L. R. B.*, 97 F. (2d) 959.

N. L. R. B. v. *Nebel Knitting Co., Inc.*, 103 F. (2d) 594, enforcing as modified, *Matter of Nebel Knitting Co., Inc.* and *Amer. Fed. of Hosiery Workers*, 6 N. L. R. B. 284. In this case the Board found that the company attempted to prevent organization of its employees by expressed opposition and threats to union members, together with the discharge of six employees for their union activities. The Court enforced the Board's order requiring reinstatement and back pay for these employees, with modification only of the notice ordered posted.

Newport News Shipbuilding and Dry Dock Co. v. *N. L. R. B.*, 101 F. (2d) 841, enforcing as modified, *Matter of Newport News Shipbuilding and Dry Dock Co.* and *Ind. Union of Marine and Shipbuilding Workers of Amer.*, 8 N. L. R. B. 866. Here the Board found that the company had dominated and supported an employees' representation plan. Following the *Jones and Laughlin* decision[8] the company altered its relations to the plan but retained a veto power over amendments to its organic law and any action taken by it. The Court enforced the cease and desist provisions of the Board's order but refused disestablishment, finding that the company had so revised its relations with the plan that the latter was no longer dominated, relying in part upon statements of counsel not part of the record that the veto provisions had been eliminated subsequent to the Board's order.[8a]

Virginia Ferry Corp. v. *N. L. R. B.*, 101 F. (2d) 103, enforcing as modified, *Matter of Virginia Ferry Corp.* and *Masters, Mates and Pilots of Amer., No. 9* and *Int. Seamen's Union*, 8 N. L. R. B. 730. Here the Board found that company officers formed a bargaining committee for the employees and distributed ballots for bargaining representatives upon which only officers' names appeared. The Board found the company responsible for such action and its order requiring the disestablishment of the committee was enforced by the Court, modified only as to the form of notice ordered posted.

FIFTH CIRCUIT

N. L. R. B. v. *Bell Oil & Gas Co.*, 98 (2d) 406, rehearing denied, 98 F. (2d) 870, setting aside *Matter of Bell Oil & Gas Co.* and *Local Union 258 of Int. Ass'n of Oil Field, Gas Well & Ref. Workers of Amer., et al.*, 1 N. L. R. B. 562. In this case the Court, upon the ground of lack of sufficient supporting evidence, set aside an order of the Board requiring the reinstatement of three employees whom the Board found were refused employment, following a strike, because of their union activities.

Globe Cotton Mills v. *N. L. R. B.*, 103 F. (2d) 91, enforcing as modified, *Matter of Globe Cotton Mills* and *Textile Workers Org. Com.*,

[7] The Board, although not agreeing that it does not have power to order reinstatement of a discharged employee who later obtains substantially equivalent employment elsewhere, has since found the employment here insufficient to meet the requirements of section 2 (3) of the act. *Matter of Mooresville Cotton Mills* and *Local No. 1221, United Textile Workers of Amer.*, 15 N. L. R. B., No. 43.

[8] *N. L. R. B.* v. *Jones & Laughlin*, 301 U. S. 1.

[8a] On December 4, 1939 the Supreme Court reversed the lower court and enforced the Board's order in full.

6 N. L. R. B. 461. Here the Board found that the company did not bargain with the representatives of its employees in good faith; counterproposals were not made, and a contract merely embodying existing labor practices was refused. The Court set aside the usual cease and desist and notice provisions of the order (improperly, the Board believes), but enforced the provision requiring the company to bargain collectively with the representatives of its employees and to embody any understanding that might be reached in a binding agreement.

Peninsular & Occidental S. S. Co. v. *N. L. R. B.*, 98 F. (2d) 411, certiorari denied, 305 U. S. 653, setting aside *Matter of Peninsular & Occidental S. S. Co.*, and *Maritime Union of Amer.*, 5 N. L. R. B. 959. Here the Board found that crews of two vessels shifted their affiliation from one union to a second. The crew of one vessel was then discharged and told that the ship was being laid up. Disbelieving that the lay-up was for a reason other than their shift in union affiliation, the men refused to leave the vessel until removed. Shortly thereafter the crew of the second vessel was discharged under similar circumstances. The ships then sailed with crews supplied by the original union under the terms of a preferential contract. The Board found the discharges were discriminatory, but its subsequent order of reinstatement was set aside by the Court on the ground that the discharge and replacement of the men were justified.

N. L. R. B. v. *Pure Oil Co.*, 103 F. (2d) 497, enforcing *Matter of Pure Oil Co.* and *Oil Workers' Intn'l Union, Local 228*, 6 N. L. R. B. 818. In this case respondent resisted enforcement of an order, based on a stipulation between the parties, upon the ground that it had voluntarily complied with the order and that the company union involved had disbanded. The Court enforced the order of disestablishment without modification, holding, in accordance with decisions of the Supreme Court, that the controversy had not become moot through these acts.

Waterman S. S. Corp. v. *N. L. R. B.*, 103 F. (2d) 157, setting aside *Matter of Waterman S. S. Corp.* and *Nat. Maritime Union of Amer. Engine Div., Mobile Branch, Mobile, Ala.*, 7 N. L. R. B. 237. In this case the crews of two of petitioner's vessels were laid off when they changed affiliation from one union to another, the ships being remanned with members of the first union. The Board found these lay-offs to be discriminatory and ordered reinstatement. The Court set aside all but a small portion of the order, sustaining the company's contention that the lay-offs were not discriminatory and that a preferential hiring contract with the first union required remanning of the vessels with its members.[9]

SIXTH CIRCUIT

N. L. R. B. v. *Arthur J. Colten and Abe J. Colman, doing business as Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, enforcing *Matter of Arthur J. Colten and A. J. Colman, copartners, doing business as Kiddie Kover Mfg. Co.* and *Amal. Clothing Workers of Amer.*, 6 N. L. R. B. 355. Here the Board found that the company attempted to coerce its employees into withdrawing from the union

[9] The Board's petition for certiorari was granted October 9, 1939.

which had gained a majority in its plant. Relying upon a poll conducted by itself, the management refused to bargain with the union and set up a company union when the workers went on strike. The Court enforced a Board order requiring the company to bargain with the union, to reinstate strikers and an employee discharged for union activity, and to disestablish the dominated organization. Subsequent to the Board's order, one partner died, but the Court ruled that this did not relieve the surviving partner of his duty to comply with the Board's order.

N. L. R. B. v. *Louisville Refining Co.*, 102 F. (2d) 678, enforcing as modified, *Matter of Louisville Refining Co.* and *Int. Ass'n. Oil, Gas Well and Refinery Workers of Amer.*, 4 N. L. R. B. 844.[10] In this case the company refused to deal with the representatives of its employees and discharged the principal officers and committeemen of the union. The Board's order, requiring the company to reinstate these men and to bargain with the union, was enforced by the Court with modification only of the form of notice to be posted.

SEVENTH CIRCUIT [11]

N. L. R. B. v. *The Falk Corp.*, 102 F. (2d) 383, enforcing *Matter of The Falk Corp.* and *Amal. Ass'n of Iron, Steel and Tin Workers of No. Amer., Lodge 1528*, 6 N. L. R. B. 654, involved the validity of a Board order disestablishing an independent union formed with the assistance and encouragement of the company. Upon reviewing the evidence the Court sustained the Board's findings and enforced its order without modification.[12]

Jefferson Electric Co. v. *N. L. R. B.*, *Int. Brotherhood of Electrical Workers* v. *N. L. R. B.*, 102 F. (2d) 949, setting aside *Matter of Jefferson Electric Co. and United Electrical and Radio Workers of Amer.*, 8 N. L. R. B., 284. Here the Board found that the company granted recognition and a closed-shop contract to one union during a membership drive on the part of a second. The Board found that the company had illegally favored the former and ordered the abrogation of its contract, the withdrawal of recognition, and the reinstatement of several discharged employees. The Court set aside the order, holding that the preference which the company had shown toward the first union was not sufficient to violate the act, and that it had also extended cooperation to the second.

EIGHTH CIRCUIT

N. L. R. B. v. *Crowe Coal Co.*, 104 F. (2d) 633, enforcing *Matter of Crowe Coal Co. and United Mine Workers of Amer., District No. 14*, 9 N. L. R. B. 1149.[13] The company in this case stipulated as to its unfair labor practices, contesting only the jurisdictional issue.

[10] Certiorari denied, October 9, 1939.

[11] As the Supreme Court decision in *Fansteel Metallurgical Corp.* v. *N. L. R. B.* is summarized on p. 114, a discussion of the Circuit Court decision is omitted here.

[12] As part of its order the Board directed that an election to determine bargaining representatives be held after the effects of respondent's unfair labor practices had been dissipated through compliance with the order. On July 13, 1939, the Court entered a decree which modified the Board's order to permit the disestablished union to appear upon the ballot in any subsequent election held to determine bargaining representatives of the employees. The Board's petition for writ of certiorari to review this decision was granted November 13, 1939.

[13] Certiorari denied, October 9, 1939.

The Court sustained the Board's jurisdiction over the company, operating a Missouri coal mine, upon findings that over 12 percent of its total production were sold directly in interstate commerce and that 24 percent was sold to interstate railroads. The Board's order requiring the reinstatement of four discharged employees with back pay was accordingly enforced.

In *Cudahy Packing Co.* v. *N. L. R. B.*, 102 F. (2d) 745, enforcing *Matter of Cudahy Packing Co. and Packinghouse Workers Local Ind. Union No. 62*, 5 N. L. R. B. 472, the Court sustained a Board order requiring the company to disestablish an independent union found to have been illegally assisted and dominated by it, to cease giving effect to a contract with the independent union, and to reinstate with back pay an employee found to have been discharged for union activities. Other than redefining the term "disestablishment" and adding certain matters to the notice ordered posted, the Court enforced the Board's order in its entirety.[14]

Hamilton-Brown Shoe Co. v. *N. L. R. B.*, *Boot & Shoe Workers Union* v. *N. L. R. B.*, 104 F. (2d) 49, enforcing as modified, *Matter of Hamilton-Brown Shoe Co.* and *Local No. 125, United Shoe Workers of Amer.*, 9 N. L. R. B. 1073. Here the Board found that the company discharged a large number of union members during a slump in business in an effort to prevent organization of its employees, and it aided the establishment of a company union and entered into a closed-shop contract with it which resulted in the discharge of further union members. The Court enforced in full the Board's order requiring disestablishment of the company union and reinstatement with back pay of the discharged employees. The Court upheld the Board's finding that the company had improperly refused to bargain with the union but withheld enforcement of the portion of the Board's order based on such refusal pending an election to determine whether it continued to represent a majority of the employees.[15]

N. L. R. B. v. *Christian A. Lund, doing business as C. A. Lund Co. and Northland Ski Mfg. Co.*, 103 F. (2d) 815, enforcing *Matter of C. A. Lund, et al.*, 6 N. L. R. B. 423. In this case the Board found that respondents refused to bargain with the union designated by their employees and formed a company union in opposition to it. After the discharge of two union officers the workers went on strike. The Court upheld the Board's finding that employees at the two plants involved constituted a single unit for bargaining purposes and enforced its order requiring disestablishment, reinstatement of the discharged employees, bargaining with the union and posting of notices. The case was remanded for a further hearing on the reinstatement of the strikers.

Montgomery Ward & Co., Inc., v. *N. L. R. B.*, 103 F. (2d) 147, setting aside and remanding *Matter of Montgomery Ward & Co., Inc.*, and *United Mail Order and Retail Workers of Amer.*, 4 N. L. R. B. 1151. Here the Board ordered the reinstatement of two employees found to have been discriminated against because of their union activities. Without passing upon the merits of the case the

[14] Certiorari denied, October 9, 1939.
[15] Rehearing denied July 24, 1939.

Court held that the conduct of the trial examiner had been improper and remanded the case for a new hearing.

Wilson & Co., Inc., v. *N. L. R. B.*, 103 F. (2d) 243, enforcing as modified, *Matter of Wilson & Co., Inc.*, and *Ind. Union of All Workers or its successor United Packing House Workers*, 7 N. L. R. B. 986. The Court here enforced an order of the Board requiring disestablishment of an employees' representation plan found to have been established and supported by the company. A portion of the order requiring reinstatement of an employee found to have been discriminatorily discharged was set aside by the Court.

NINTH CIRCUIT

N. L. R. B. v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, enforcing *Matter of Biles-Coleman Lumber Co.* and *Puget Sound District Council of Lumber and Sawmill Workers*, 4 N. L. R. B. 679. Here the company refused to recognize the representative of its employees or bargain with it and a strike followed. After various maneuvers to discredit the union, including a poll of the individual strikers, the plant was reopened with the aid of employees newly hired. The Court enforced the Board's order in its entirety, requiring bargaining with the union and reinstatement of the strikers with back pay from date of refusal of application for reemployment.[16]

In *N. L. R. B.* v. *Carlisle Lumber Co.*, 99 F. (2d) 533, certiorari denied, 306 U. S. 646, enforcing *Matter of Carlisle Lumber Co.* and *Lumber & Sawmill Workers' Union, Local 2511, Onalaska, Wash., and Associated Employees of Onalaska, Inc.*, 2 N. L. R. B. 248, the court enforced without modification a Board order relating to back pay, in accordance with recommendations made by the Board as a result of supplementary hearings held in the case. Previously the court had enforced all but the back pay provisions of the order.[17]

N. L. R. B. v. *William Randolph Hearst, Hearst Publications, Inc., Hearst Consolidated Publications, Inc., Hearst Corp., American Newspapers, Inc., and King Features, Inc.*, 102 F. (2d) 658, enforcing *Matter of Hearst, et al.*, and *Amer. Newspaper Guild, Seattle Chapter*, 2 N. L. R. B. 530, involved unfair labor practices occurring on the Seattle Post-Intelligencer, published by an operating subsidiary of the Hearst newspaper chain. The Court sustained the Board's jurisdiction over the parent respondents upon the grounds that they acted for the operating subsidiary and thus fell within the scope of the term "employer" as defined in section 2 (2) of the act. Negative provisions of the Board's order were sustained against all respondents, and the operating subsidiary was required to reinstate with back pay an employee discharged for union activity. Back pay owing a second employee who had been discharged for union activities but who had died subsequent to the Board's order was ordered paid over to the latter's personal representative or other persons entitled to it.

N. L. R. B. v. *Idaho-Maryland Mines Corp.*, 98 F. (2d) 129, setting aside *Matter of Idaho-Maryland Mines Corp.* and *Int. Union of Mine*,

[16] Two previous attempts of respondents to delay consideration of the Board's order were resolved in favor of the Board. *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 96 F. (2d) 197 (C. C. A. 9), application for leave to adduce additional testimony denied; *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 16 (C. C. A. 9), petition for issuance of commissions or for leave to adduce additional testimony, and motion to compel answer to affirmative defense, denied.

[17] *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied, 304 U. S. 575.

Mill and Smelter Workers of Amer., Local 283, 4 N. L. R. B. 784. This case concerned the unfair labor practices of a company operating mines in California from which gold was shipped to the United States Mint in San Francisco. The Board based its jurisdiction principally upon findings that the gold was shipped out of California after refining at the mint, and that gold constitutes the "lifeblood" of commerce. The Court set aside the Board's order, holding that such operations did not affect commerce within the meaning of the act.

M & M Wood Working Co. v. *N. L. R. B.*, 101 F. (2d) 938, setting aside *Matter of M & M Wood Working Co.* and *Plywood and Veneer Workers Union Local No. 102*, 6 N. L. R. B. 372. This case concerned a shift of the employees involved from one nationally affiliated union to another, shortly after which a new local of the original union was established. Membership in the new local was thereupon required of all employees by the company, which based its actions on a closed-shop contract previously executed with the original union. The Board found this to be a violation of section 8 (3) of the act, but the Court set aside the order as not being supported by the evidence.

N. L. R. B. v. *National Motor Bearing Co., Inc. Ass'n of Machinists*, 105 F. (2d) 652, enforcing as modified *Matter of National Motor Bearing Co.* and *Int. Union, United Automobile Workers of Amer. Local No. 76*, 5 N. L. R. B. 409. Here the Board found that the company through its supervisors, promoted the interests of one union over another and locked out the employees when they refused to shift their affiliation. Upon resumption of operations it entered into a closed-shop contract with the favored union although the first union was the majority representative of the workers. The Court enforced the Board's order requiring reinstatement with back pay, bargaining with the first union, and abrogation of the closed-shop contract. Provisions relating to surveillance and reinstatement of employees who had found other employment were modified.

N. L. R. B. v. *Union Pacific Stages, Inc.*, 99 F. (2d) 153, rehearing denied, January 9, 1939, setting aside in part, *Matter of Union Pacific Stages, Inc.* and *Amal. Ass'n of Street, Electric Ry. and Motor Coach Employees of Amer. Local Div. 1055*, 2 N. L. R. B. 471. In this case the Board found that the company had engaged in an antiunion program which culminated in the discharge of two employees for their union activities. The Court sustained only the findings of the Board which related to threatening statements on the part of company superintendents and set aside the order except for the provision requiring the posting of notices to cease and desist from such practices.

TENTH CIRCUIT

Swift & Co. v. *N. L. R. B.*, 106 F. (2d) 87, enforcing as modified, *Matter of Swift & Co.* and *Amal. Meat Cutters and Butcher Workmen of No. Amer., Local No. 641, and United Packing House Workers Local Ind. Union No. 300*, 7 N. L. R. B. 269. In this case the Court enforced an order requiring disestablishment of a company union, found by the Board to have been formed and supported by the company. The notice provision of the order was modified.[18]

[18] Rehearing denied, August 4, 1939.

B. MISCELLANEOUS COURT PROCEEDINGS

In addition to the normal litigation involving the enforcement or review of its orders the Board has engaged during the fiscal year in a small amount of miscellaneous litigation.

The largest number of such cases arose out of proceedings under section 9 (c) of the act which provides for the investigation and certification of representatives for the purpose of collective bargaining. In three cases during the year suits were brought for mandatory injunctions to compel certification of representatives, two being dismissed and one quashed.[19] Two cases involving suits to review Board certifications also occurred during the fiscal year. In *Amer. Fed. of Labor* v. *N. L. R. B.*, 103 F. (2d) 933 (C. A. D. C.), a petition for review of a Board certification was dismissed on the ground that such a determination by the Board was not an appealable order.[20] In this case the Board certified bargaining representatives for longshoremen employed on the Pacific coast and united in one unit some 200 employers who operated in the different ports in this area.[21] In *Libbey-Owens-Ford Glass Co.* v. *N. L. R. B.*, May 10, 1939 (C. C. A. 6), a Board motion for dismissal of a petition to review its certification was denied.[22] A rehearing in the matter has been withheld pending the outcome of the *Longshoremen's case* in the Supreme Court.

In four cases during the fiscal year efforts were made to review or stay of directions of election ordered by the Board under Section 9 (c) of the Act. In all but one the Board's contention that the Court was without jurisdiction to take such action was sustained.[23] In the fourth, *International Brotherhood of Electrical Workers* v. *N. L. R. B.*, 105 F. (2d) 598 (C. C. A. 6), the circuit court of appeals held that it had jurisdiction to review a direction of a run-off election and set aside the Board's order.[24]

In *Int. Molders Union* v. *N. L. R. B.*, 26 F. Supp. 423 (E. D. Pa.) a suit to compel vacation of an order of the Board dismissing a petition under section 9 (c) of the Act was dismissed for lack of jurisdiction.

During the fiscal year one adjudication of contempt was obtained by the Board for noncompliance with a Court decree enforcing its order.[25] A second petition for a contempt citation was pending on June 30, 1939.[26]

Attempts to inquire into Board methods of decision through interrogatories or depositions were made in three cases during the year; in each case the application was denied.[27] Two other such cases were pending at the close of the year.[28]

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[19] *Amer. Fed. of Labor and Fed. Labor Union No. 21164* v. *N. L. R. B.* (D. C. D. C., docket No. 67810); *Amer. Fed. of Labor and Fed. Labor Union No. 21164* v. *N. L. R. B.* (D. C. D. C., docket No. 434); *Amer. Fed. of Labor and Fed. Labor Union No. 21164* v. *N. L. R. B.* (D. C. D. C., docket 552).

[20] Certiorari granted. Oct. 9, 1939.

[21] *Matter of Shipowners' Ass'n of the Pacific Coast et al.* and *Int. Longshoremen's and Warehousemen's Union, District No. 1*, 7 N. L. R. B. 1002.

[22] *Matter of Libbey-Owens-Ford Glass Co.* and *Fed. of Flat Glass Workers of Amer.*, 10 N. L. R. B. 1470.

[23] *Armour & Co.* v. *N. L. R. B.*, 105 F. (2d) 1016 (C. C. A. 7); *Cupples Co. Mf'rs* v. *N. L. R. B.*, 103 F. (2d) 953 (C. C. A. 8); *Metropolitan Engineering Co.* v. *N. L. R. B.*, stay denied, Aug. 12, 1938 (C. C. A. 2).

[24] *Matter of Consumers Power Co.* and *Int. Brotherhood of Electrical Workers*, 11 N. L. R. B. 848; the Board's petition for certiorari granted. Oct. 9, 1939.

[25] *N. L. R. B.* v. *Hopwood Retinning Co., Inc.*, and *Monarch Retinning Co., Inc.*, 104 F. (2d) 302 (C. C. A. 2).

[26] *N. L. R. B.* v. *Eavenson & Levering Co.* (C. C. A. 3); Board petition denied, Aug. 9, 1939.

[27] *Cupples Co. Mf'rs.* v. *N. L. R. B.*, 103 F. (2d) 953 (C. C. A. 8); *Inland Steel Co.* v. *N. L. R. B.*, 105 F. (2d) 246 (C. C. A. 7); *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 648 (C. C. A. 6), cert. denied, Oct. 9, 1939, order of May 3, 1939.

[28] *Lane Cotton Mills* v. *N. L. R. B.* (C. C. A. 5); *Botany Worsted Mills* v. *N. L. R. B.* (C. C. A. 3).

In one case, *In re Hamilton-Brown Shoe Co., Debtor*, (E. D. Mo.) the Board has filed claims for back pay awarded employees through the enforcement of its order against the bankrupt.[29] The Board's petition to proceed against the debtor in a case involving unfair labor practices at a second plant of the company was pending at the close of the fiscal year.[30]

In *Ford Motor Co.* v. *N. L. R. B.*, 305 U. S. 364, affirming 99 F. (2d) 1003 (C. C. A. 6), the company contested the Board's right to withdraw from the Circuit Court of Appeals its petition to enforce an order, and to have the case remanded to the Board, although the company had filed a petition to review. The Supreme Court affirmed without modification the action of the lower court in remanding the case for further proceedings before the Board. Upon remand the Board vacated its order, reconsidered the case, and thereafter entered a new order, following the issuance of proposed findings.[31]

In two cases where Board subpoenas had not been complied with, enforcement proceedings, pursuant to section 11 (2) of the Act, were commenced in district courts and successfully concluded.[32]

But one attempt was made to enjoin Board proceedings during the fiscal year,[33] in contrast with the numerous cases of this nature which confronted the Board in previous years.[34]

In *Hicks* v. *N. L. R. B.*, decided May 31, 1939 (C. C. A. 2)[35] an employee sought to review action of the Board in dismissing allegations of her discriminatory discharge from a complaint at the close of a Board hearing during which no evidence had been presented in her behalf. Review was denied.[36]

C. PRINCIPLES ESTABLISHED

So numerous have been the procedural and substantive principles established in the large volume of litigation arising under the Act during the fiscal year that only the most important ones may be summarized below.

COMMERCE

The principles relating to the extent of the Board's jurisdiction have been set forth in Chapter VIII, above, entitled "Jurisdiction."

EMPLOYEE STATUS OF STRIKERS

Discharge of striking employees merely for leaving work does not terminate employee status.—During the previous fiscal year the Courts

[29] The Board's order was enforced in *Hamilton-Brown Shoe Co. et al.* v. *N. L. R. B.*, 104 F. (2d) 49 (C. C. A. 8), *supra*, p. 121.

[30] *Matter of Hamilton-Brown Shoe Co.* and *United Shoe Workers of Amer., Local 149*, and *Boot & Shoe Workers of Amer., Local 177*, Case No. XIV–C–245.

[31] *Matter of Ford Motor Co.* and *Union, United Automobile Workers of Amer.*, 10 N. L. R. B. 1373, 14 N. L. R. B. No. 28. See also *N. L. R. B.* v. *Cherry Cotton Mills* (C. C. A. 5); *Cincinnati Milling Machine Co.* v. *N. L. R. B.*, 102 F. (2d) 979 (C. C. A. 6); *Electric Vacuum Cleaner Co., Inc.*, v. *N. L. R. B.* (C. C. A. 6); *Lane Cotton Mills* v. *N. L. R. B.* (C. C. A. 5); Cf. Third Annual Report, p. 228.

[32] *N. L. R. B.* v. *Benjamin D. Ritholz, et al.* (N. D. Ill., June 13, 1939); *N. L. R. B.* v. *Leroy L. Schulz* (E. D. Wisc., April 11, 1939). Application for enforcement of subpoenas was pending at the close of the fiscal year in *N. L. R. B.* v. *Chambers Corp. et al.* (S. D. Ind.).

[33] *Benjamin D. Ritholz et al.* v. *N. L. R. B.* (D. C. D. C.).

[34] See Third Annual Report, p. 221.

[35] Certiorari denied, Oct. 9, 1939.

[36] In *Hicks* v. *N. L. R. B.*, 100 F. (2d) 804 (C. C. A. 4), a similar petition was denied on jurisdictional grounds.

had given full effect to the provisions of section 2 (3) of the Act, that workers who go on strike, whether in protest against unfair labor practices or merely as a part of a dispute regarding terms or conditions of employment, do not thereby lose their status as employees for the purposes of the Act. *N. L. R. B.* v. *Mackay Radio & Telegraph Co.*, 304 U. S. 333. (See Third Annual Report, p. 230).

As a necessary corollary, it had been held that an employer's attempt to "discharge" his striking employees merely for leaving work was without legal effect,[37] that striking employees may not be discriminated against in rehiring at the conclusion of the strike,[38] and that the employer may not lawfully refuse to bargain during a strike.[39]

During the past fiscal year these principles were reaffirmed in several Supreme Court and Circuit Court decisions.[40]

Termination of employee status because of contract violation or misconduct.—In *N. L. R. B.* v. *Sands Mfg. Co.*, 306 U. S. 332, the Supreme Court exonerated an employer for his refusal to bargain with a union which represented a majority of his erstwhile employees, on the ground that the union had violated its collective contract with the company, and that this entitled the company to terminate the employee status of all union members and to negotiate with a rival union for replacements.

Seizure and retention of their employer's plant makes the employee status of the offenders terminable by the employer.—In *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240, 256, employees who had gone on strike in protest against their employer's violation of section 8 (5) of the Act seized and held the employer's plant, ignoring an injunctive order issued by a state court and resisting efforts made by peace officers to dislodge them. Their discharge for these offenses, the Court held, Justices Reed and Black dissenting, terminated their status as employees.[41]

When the *Fansteel* doctrine is applied, the Courts insist upon substantial proof of the actual guilt of the strikers. No mere rumor in the community or *ex parte* investigation conducted by an employer's counsel,[42] or charges preferred but not pressed,[43] will suffice.

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[37] *Standard Lime & Stone Co.* v. *N. L. R. B.*, 97 F. (2d) 531, 534–5 (C. C. A. 4); *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied, 304 U. S. 575.

[38] *N. L. R. B.* v. *Mackay Radio & Telegraph Co.*, 304 U. S. 333; *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585; *N. L. R. B.* v. *Bell Oil, Burke-Divide, and Reno Oil Co.*, 91 F. (2d) 509 (C. C. A. 5).

[39] *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585; *N. L. R. B.* v. *Black Diamond Steamship Co.*, 94 F. (2d) 875 (C. C. A. 2), certiorari denied, 304 U. S. 579; *Jeffrey-DeWitt Insulator Co.* v. *N. R. L. B.*, 91 F. (2d) 134 (C. C. A. 4), certiorari denied, 302 U. S. 731; *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied, 304 U. S. 575.

[40] In *N. L. R. B.* v. *Columbian Enameling & Stamping Co.*, 306 U. S. 292, 296, the Supreme Court expressly stated that an employer is obligated to bargain with his striking employees if they represent a majority. In *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240, 255–6, and *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 176 (C. C. A. 3), certiorari denied, November 6, 1939, express recognition was given to the fact that discharge of employees merely for walking off the job is legally ineffective.

[41] On the other hand, the Court subsequently refused to grant certiorari in *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138, 99 F. (2d) 533 (C. C. A. 9), certiorari denied, 306 U. S. 646, where striking employees had blocked railroad tracks and engaged in fights with nonstriking employees (2 N. L. R. B. 248, 272, 274–5), and where it was alleged that they were responsible for the burning of several freight cars and the blowing up of the pump house of a carrier which served the company.

[42] *N. L. R. B.* v. *Kentucky Fire Brick Co.*, 99 F. (2d) 89, 92–3 (C. C. A. 6).

[43] *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 175–6 (C. C. A. 3), certiorari denied November 6, 1939 (case of Sylvester Jesberger); *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, 183 (C. C. A. 6). In the *Kiddie Kover case*, where contempt proceedings had been brought against 13 strikers for violation of an injunction against strike violence, the Court upheld the Board's reinstatement order, saying:

"No finding of guilt was, however, made. * * * The offenders were not identified, and upon hearing the Circuit Judge released those accused with an admonition * * *."

Unplanned or petty violence does not make the employee status of strikers terminable by the employer.—The gravity and deliberateness of the offenses committed by the strikers in the *Fansteel* case were undoubtedly of primary importance in causing the majority of the Court to hold as it did. It can by no means be assumed that any kind of violation of law by strikers would impel the Court to a similar decision. In *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 175–6 (C. C. A. 3), the *Fansteel* decision was distinguished and the employee status of certain strikers was held not to have been made vulnerable by their arraignment on charges of disorderly conduct, disturbing the peace, and assault and battery, even though two of them were subsequently convicted and sentenced for those offenses.[44] In *N. L. R. B.* v. *Hearst*, 102 F. (2d) 658, 663 (C. C. A. 9), moreover, a discharged employee was ordered reinstated despite the fact that he and his union had sought and obtained the picketing aid of a union alleged to be well known for its violent and unlawful tactics on the picket line.

Finally, in *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, 183, the Sixth Circuit upheld the reinstatement of 13 strikers who had been brought before and admonished by a state court judge for contempt of an injunction against violence on the picket line.[45]

EMPLOYERS

Affiliated corporations may be jointly proceeded against for unfair labor practices committed by any one of them.—Section 2 (2) of the Act defines an employer as including "any person acting in the interest of an employer, directly or indirectly * * *" It had been established during the preceding fiscal year in *N. L. R. B.* v. *Pennsylvania Greyhound Lines, Inc., and Greyhound Management Co.*, 303 U. S. 261, 262,[46] that a managing subsidiary which handles personnel problems can be the co-employer of workers on the pay rolls of operating subsidiaries in the same holding company system and that an operating subsidiary can be an employer of workers performing services for sub-subsidiary operating companies.

During the past fiscal year this principle has been extended. *Consolidated Edison Co., et al.* v. *N. L. R. B.*, 305 U. S. 197, 219, involved a joint proceeding against a parent corporation and all of its affiliated operating companies. In *N. L. R. B.* v. *Hearst et al.*, 102 F. (2d) 658, 660, 662–3 (C. C. A. 9), the Court upheld cease and desist orders against William Randolph Hearst, personally, because of unfair labor practices engaged in by Hearst Publications, Inc., an operating subsidiary separated from Hearst himself by a hierarchy of three successive holding corporations.[47]

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[44] The Third Circuit declared:
"We cannot conclude that rights given to employees under the National Labor Relations Act are destroyed because of violence of a type as common to labor disputes as a fist-fight upon a picket line. In brief, in our opinion there was no act of 'compulsion' upon the part of the strikers whereby '* * * they took a position outside the protection of the statute and accepted the risk of the termination of their employment * * *'" (105 F. (2d), at 176).

[45] Likewise, in *N. L. R. B.* v. *Louisville Refining Co.*, 102 F (2d) 678 (C. C. A. 6), certiorari denied, Oct. 9, 1939, the court sustained without comment reinstatement of strikers accused of trespass by the employer.

[46] Enforcing *Matter of Pennsylvania Greyhound Lines, Inc., and Greyhound Management Co.* and *Amal. Ass'n of Street, Electric Ry.* and *Motor Coach Employees of Amer.*, 1 N. L. R. B. 1, 3–4, 43–4.

[47] These intervening holding corporations were likewise made subject to the cease and desist orders. However, the Court refused to make the Board's *affirmative* orders binding upon them or upon Hearst himself, but directed them solely against Hearst Publications, Inc., the direct employer.

Where the corporations involved have not been directly related by stock ownership, as in the cases above cited, but where identity of control has been plain, the Courts have sustained Board orders against all corporations concerned. In *N. L. R. B.* v. *Hopwood Retinning Co. and Monarch Retinning Co.*, 98 F. (2d), 97, 101–2 (C. C. A. 2), a Board order directed jointly against a respondent and its allegedly independent successor in business was set aside, but only because there had been no formal charge filed with the Board against the successor. However, the Court sustained the Board's finding that the successor was the alter ego and agent of the original respondent. Thus the successor corporation was subsequently adjudged in contempt for its failure to comply with the Court's enforcement decree, even though the decree had not been directed against it *eo nomine*.[48]

Moreover, the Eighth Circuit sustained a Board order against two allegedly independent corporate entities in *N. L. R. B.* v. *Christian A. Lund, doing business as C. A. Lund Co. and Northland Ski Mfg. Co.*, 103 F. (2d) 815, (C. C. A. 8), the unity of ultimate ownership and control having been established.

Finally, orders providing for reinstatement and back pay have been made effective against the survivor of a copartnership despite the death of one of the partners after the issuance of the order. *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, 182–3 (C. C. A. 6).

Supervisory employees bind their employer by their acts.—By operation of the principle of respondeat superior, employers are responsible for supervisory employees' interferences with the self-organization of subordinate employees, even though those interferences are entirely unauthorized by the higher executives;[49] or even if they are in disregard of repeated and express instructions.[50] It has been further established that supervisory employees need not possess the power to hire or fire in order to render the employer responsible for their actions.[51]

ORDERS DISESTABLISHING COMPANY UNIONS

A company union's structural incapacity for acting as true representative of employees is not a prerequisite to disestablishment.—The power of the Board to order an employer to disestablish a purported labor organization dominated, interfered with, or supported by the employer in violation of Section 8 (2) of the Act, was upheld in *N. L. R. B.* v. *Pennsylvania Greyhound Lines, Inc.*, 303 U. S. 261, and in *N. L. R. B.* v. *Pacific Greyhound Lines, Inc.*, 303 U. S. 272. In the latter case the Court declared:

> While the formal provisions, in constitution and bylaws, for insuring employer control of the company union in the *Pennsylvania* case are wanting here, the record shows, as the Board found, that employer control * * * was none the less effective. (303 U. S., at 274.)

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[48] *N. L. R. B.* v. *Hopwood Retinning Co.*, 104 F. (2d) 302 (C. C. A. 2).
[49] *N. L. R. B.* v. *A. S. Abell Co.*, 97 F. (2d) 951, 956 (C. C. A. 4); *Virginia Ferry Corp.* v. *N. L. R. B.*, 101 F. (2d) 103, 106 (C. C. A. 4); *Swift & Co.* v. *N. L. R. B.*, 106 F. (2d) 87, 93 (C. C. A. 10).
[50] *Swift & Co.* v. *N. L. R. B.*, *supra*.
[51] *Virginia Ferry Corp.* v. *N. L. R. B.*, *supra*.

A contrary holding was urged upon the Supreme Court in *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240, where the principal basis of the employer's violation was his aid and support of the disestablished organization, but the Court enforced the Board's disestablishment order. Moreover, in *Cudahy Packing Co.* v. *N. L. R. B.*, 102 F. (2d) 745, 753 (C. C. A. 8), the Court expressly pointed out:

> The articles of association and the bylaws of the independent union convince that the organization has the form and structure adequately to function as a free representative of the employees.

Nevertheless, it upheld the disestablishment order because the free choice of bargaining representatives is "so subject to subtile pressure" and was subjected to such pressure in that case.[52]

ORDERS INVALIDATING CONTRACTS

Company union contracts may be invalidated by Board order.—In order to make the disestablishment of a company-dominated union complete, the Board may require the employer to cease and desist giving effect to any contract which has been entered into with such an organization.[53]

Individual contracts in violation of the Act may be invalidated by Board order.—Where an employer has induced employees to sign "yellow dog" contracts whereby they waive rights guaranteed to them by the Act, or contracts dealing with matters regarding which a legitimate majority representative is seeking to bargain collectively, the Board may require the employer to send individual notifications to each signer informing him that the contract is void.[54]

Closed-shop contracts with minority unions may be invalidated.—Section 8 (3) of the Act provides that employees shall not be discriminated against in order to encourage or discourage membership in any labor organization, except where such discrimination is the result of a closed-shop contract concluded with a majority representative not established, maintained, or assisted by an unfair labor practice.

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[52] It is noteworthy that in *N. L. R. B.* v. *Freezer and Son*, 95 F. (2d) 840, 841 (C. C. A. 4), enforcing *Matter of F. Freezer & Son* and *Amal. Clothing Workers of America, etc.*, 3 N. L. R. B. 120, 122–4, and in *N. L. R. B.* v. *Eagle Mfg. Co.*, 99 F. (2d) 930 (C. C. A. 4), enforcing *Matter of Eagle Mfg. Co.* and *Steel Workers Org. Committee*, 6 N. L. R. B. 492, 499, disestablishment orders were upheld despite the absence of any findings that the structures of the company unions there concerned were in any respect defective. A contrary decision by the same Court in *Newport News Shipbuilding & Dry Dock Co.* v. *N. L. R. B.*, 101 F. (2d) 841 (C. C. A. 4), was reversed by the Supreme Court on December 4, 1939.

[53] *N. L. R. B.* v. *Ronni Parfum, Inc.*, 104 F. (2d) 1017 (C. C. A. 2), enforcing *Matter of Ronni Parfum* and *United Mine Workers of Amer., Dist. No. 50, Chemical Div.* 8 N. L. R. B. 323, 334; *N. L. R. B.* v. *National Licorice Co.*, 104 F. (2d) 655 (C. C. A. 2), certiorari granted, October 9, 1939, enforcing *Matter of National Licorice Co.* and *Bakery and Confectionery Workers Int. Union of Amer., Local No. 405*, 7 N. L. R. B. 537, 554; *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 173 (C. C. A. 3), certiorari denied, November 6, 1939; *N. L. R. B.* v. *Eagle Mfg. Co.*, 99 F. (2d) 930 (C. C. A. 4), enforcing *Matter of Eagle Mfg. Co.* and *Steel Workers Org. Committee*, 6 N. L. R. B. 492, 507; *Cudahy Packing Co.* v. *N. L. R. B.*, 102 F. (2d) 745, 747, 752 (C. C. A. 8), cert. denied, October 9, 1939; *Hamilton-Brown Shoe Co.* v. *N. L. R. B.*, 104 F. (2d) 49, 54 (C. C. A. 8).

[54] *N. L. R. B.* v. *Hopwood Retinning Co.*, 98 F. (2d) 97 (C. C. A. 2), enforcing *Matter of Hopwood Retinning Co.* and *Metal Polishers, Buffers, Platers, and Helpers Int. Union, Local No. 8, and Teamsters Union, Local No. 584*, 4 N. L. R. B. 922, 944; *N. L. R. B.* v. *National Licorice Co.*, 104 F. (2d) 655, 657 (C. C. A. 2), certiorari granted, October 9, 1939, enforcing *Matter of Nat. Licorice Co.* and *Bakery and Confectionery Workers Int. Union of Amer., Local No. 405*, 7 N. L. R. B., 537, 555. So also, during previous fiscal year, *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied, 304 U. S. 575, enforcing *Matter of Carlisle Lumber Co.* and *Lumber & Sawmill Workers Union, Local No. 2511, etc.*, 2 N. L. R. B. 248, 278, 281.

When the union which enters into such a closed-shop contract is not in fact the representative of a majority of the employees, the contract requires unlawful discrimination; the Board may therefore order the employer to cease and desist from giving effect to it. *Nat. Motor Bearing Co.* v. *N. L. R. B.*, 105 F. (2d) 652, 660 (C. C. A. 9).

ORDERS FOR BACK PAY

Deceased employee's back pay can be ordered paid to his personal representative.—When an employee dies after the Board has ordered his reinstatement with back pay, his personal representative is entitled to receive his back pay, according to the holding of the Ninth Circuit in *N. L. R. B.* v. *Hearst*, 102 F. (2d) 658, 664.

Noncompliance with reinstatement order starts back pay running.—When the Board orders the reinstatement of strikers, it may validly order that they receive back pay for the period following the date on which the employer, in violation of the Board's order, rejects their request for reemployment.[55]

Exact amount of back pay need not be specified in Board order.—The exact amount of back pay necessary to make each employee whole need not be set forth in the Board's order. Any disagreement on that score can be resolved in contempt proceedings. *N. L. R. B.* v. *Carlisle Lumber Co.*, 99 F. (2d) 533, 539 (C. C. A. 9), certiorari denied, 306 U. S. 646.

ORDERS REINSTATING STRIKERS

Displacement of present employees is contemplated.—When the Board orders the reinstatement of employees whose work has ceased as a result of an unfair labor practice, it is contemplated that persons who have been employed to take their places will be displaced. *Consolidated Edison Co.* v. *N. L. R. B.*, 95 F. (2d) 390, 397 (C. C. A. 2), affirmed as modified, 305 U. S. 197. The fact that the reinstated employees happen to be strikers, and therefore numerous, does not alter the legal principle applicable.[56]

When the total number of workers utilized by an employer is reduced for business reasons, so that, even after all strikebreakers have been let go, there are still no vacancies for the strikers ordered reinstated, the employer may be required to divide available work be-

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[55] *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 177 (C. C. A. 3), certiorari denied November 6, 1939; *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678 (C. C. A. 6), certiorari denied, October 9, 1939, enforcing *Matter of Louisville Refining Co.* and *Int. Ass'n of Oil Field, Gas Well and Refinery Workers of Amer.*, 4 N. L. R. B. 844, 877; *N. L. R. B.* v. *Oregon Worsted Co.*, 96 F. (2d) 193, 196 (C. C. A. 9); *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 23 (C. C. A. 9), enforcing *Matter of Biles-Coleman Lumber Co.* and *Puget Sound Dist. Council of Lumber and Sawmill Workers*, 4 N. L. R. B. 679, 708.

[56] Orders requiring the displacement of strikebreakers in connection with the reinstatement of employees engaged in a strike caused or prolonged by unfair labor practices have been enforced in a number of recent cases. *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 177–8 (C. C. A. 3), certiorari denied November 6, 1939; *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678 (C. C. A. 6), certiorari denied, October 9, 1939, enforcing *Matter of Louisville Refining Co.* and *Int. Ass'n Oil Field, Gas Well and Refinery Workers of Amer.*, 4 N. L. R. B. 844, 877; *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179 (C. C. A. 6); *N. L. R. B.* v. *C. A. Lund*, 103 F. (2d) 815, 820–1 (C. C. A. 8); *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 23 (C. C. A. 9), enforcing *Matter of Biles-Coleman Lumber Co.* and *Puget Sound Dist. Council of Lumber and Sawmill Workers*, 4 N. L. R. B. 679, 708. So also, during the preceding fiscal year: *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585; *Black Diamond Steamship Corp.* v. *N. L. R. B.*, 94 F (2d) 875 (C. C. A. 2), certiorari denied 304 U. S. 579; *Jeffery-DeWitt Insulator Co.* v. *N. L. R. B.*, 91 F. (2d) 134 (C. C. A. 4), certiorari denied, 302 U. S. 731; *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied 304 U. S. 575.

tween striking and non-striking employees on some non-discriminatory basis. *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 177 (C. C. A. 3), certiorari denied, November 6, 1939.

Removal of the employer's plant to a new location is no obstacle to reinstatement.—The power of the Board to order reinstatement even though the employer removes his plant to a new location is well established. *N. L. R. B.* v. *Hopwood Retinning Co.*, 98 F. (2d) 97, 99 (C. C. A. 2); *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 177–8 (C. C. A. 3), certiorari denied, November 6, 1939.[57]

Reinstatement of strikers who have engaged in misconduct during the strike.—In *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240, 257–8, the Supreme Court held that the purposes of the Act are not effectuated by the reinstatement of strikers who have been guilty of seizure and violent retention of possession of their employer's plant, in defiance of state law and a court order and that an order of reinstatement in such a case is an abuse of discretion, even though the employer himself has been guilty of serious violation of the Act.[58] Striking employees who brought food to those in occupation of the Fansteel plant were held barred from reinstatement as "abetters" by application of the same principle.

When strikers engage in unplanned or petty violence, the Board does not exceed its discretion in ordering their reinstatement.—The *Fansteel* rule is inapplicable to strikers who engage in ordinary picket-line disputes, common to such controversies. In *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 175 (C. C. A. 3), and in *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, 183 (C. C. A. 6), a Board order reinstating such strikers was enforced and the *Fansteel* case expressly distinguished.[59]

ORDERS TO CEASE AND DESIST

The cease and desist orders issued by the Board can be phrased to extend beyond the particular unlawful activity found to have taken place. Thus, a general cease and desist order in the language of section 8 (1) is proper. *N. L. R. B.* v. *Nat. Motor Bearing Co.*, 105 F. (2d) 652, 660–1 (C. C. A. 9).[60] And an order to cease and desist discouraging membership in unions by discrimination can be issued even though no actual instances of such discrimination are found to have occurred.[61]

PROCEDURE BEFORE THE BOARD—GENERALLY

Parties to Board proceedings in which contracts are invalidated.—Just as a company-dominated labor organization may be ordered dis-

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[57] So also, during the preceding fiscal year, *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862, 872 (C. C. A. 2), certiorari denied, 304 U. S. 576, 578.

[58] Justices Stone, Reed, and Black dissented.

[59] See page 127, *supra*.

[60] So also, *Newport News Shipping & D. D. Co.* v. *N. L. R. B.*, 101 F. (2d) 841, 848 (C. C. A. 4), cert. granted, 59 S. Ct. 793, enforcing as mod., *Matter of Newport News Shipbuilding and D. D. Co.* and *Ind. Union of Marine and Shipbuilding Workers of Amer.*, 8 N. L. R. B. 866, 878, and disregarding the employer's contrary contentions (Newport News' brief, p. 43); *N. L. R. B.* v. *Pure Oil Co.*, 103 F. (2d) 497 (C. C. A. 5); *N. L. R. B.* v. *Wilson & Co.*, 103 F. (2d) 243, 251 (C. C. A. 8), rehearing denied, April 25, 1939, enforcing *Matter of Wilson & Co.* and *Ind. Union of All Workers or United Packing House Workers*, 7 N. L. R. B. 986, 1000, and rejecting the employer's contrary contention (Wilson's petition for rehearing, p. 2).

[61] *N. L. R. B.* v. *Pure Oil Co.*; *N. L. R. B.* v. *Wilson & Co.*, both *supra*.

established although not made a party to the proceeding (*N. L. R. B.* v. *Pennsylvania Greyhound Lines*, 303 U. S. 261, 271), so too, may contracts between such an organization and the employer be set aside without making the organization a party to the proceeding.[62]

Where the union concerned has not been found to be company-dominated and where the contracts concerned contain no unlawful provisions, a majority of the Supreme Court has held that the contracts cannot be set aside without notice to the union and opportunity for hearing. *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 232–4.

Cessation of unfair labor practices even prior to the filing of charges with the Board is no bar to enforcement.—During the previous year it was established by the *Pennsylvania Greyhound* case that compliance with an order of the Board does not bar its enforcement. Subsequent decisions of the Circuit Courts have applied this principle to a variety of cases,[63] including some in which the compliance occurred even prior to the issuance of the Board's decision.[64] In *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U .S. 197, 230, the full scope of the principle was shown when the Supreme Court held the Board entitled to enforcement of an order barring practices which had been discontinued prior to the date when the Board received the charges which were made the basis for the Board's complaint.

PROCEDURE BEFORE THE BOARD—COMPLAINT

Amendments may properly be made to the Board's complaint after hearing has commenced.—The matter of amending the Board's complaint during the course of the hearing is within the discretion of the trial examiner. It is entirely proper for him, upon just terms to permit new discharge cases to be added to those already alleged, or missing allegations to be supplied as to the effect of the unfair practices on commerce,[65] or as to the absence of a majority upon which the validity of a closed-shop contract depends,[66] or as to the fact that unfair labor practices complained of, have resulted in a strike.[67] Moreover, permitting an amendment "to conform the pleadings to the proof" was approved by the Supreme Court.[68]

PROCEDURE BEFORE THE BOARD—HEARING

The granting of continuances lies within the discretion of the Board.—The granting of a postponement of Board hearings so that respondents may have additional time for preparation lies within the

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[62] *N. L. R. B.* v. *National Licorice Co.*, 104 F. (2d) 655, 657–8 (C. C. A. 2), certiorari granted October 9, 1939, enforcing *Matter of National Licorice Co.* and *Bakery and Confectionery Workers Int. Union of Amer., Local No. 405*, 7 N. L. R. B. 537, 554; *N. L. R. B.* v. *Stackpole Carbon Co.*, 105 F. (2d) 167, 173 (C. C. A. 3), certiorari denied, November 6, 1939.

[63] *N. L. R. B.* v. *Gerling Furniture Mfg. Co.*, 103 F. (2d) 663 (C. C. A. 7); *N. L. R. B.* v. *American Potash and Chemical Corp.*, 98 F. (2d) 488, 493 (C. C. A. 9), certiorari denied, 306 U. S. 643.

[64] *N. L. R. B.* v. *Pure Oil Co.*, 103 F. (2d) 497, 498 (C. C. A. 5); *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 681 (C. C. A. 6), certiorari denied, October 9, 1939; *N. L. R. B.* v. *Oregon Worsted Co.*, 96 F. (2d) 193, 196 (C. C. A. 9).

[65] *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 225.

[66] *Jefferson Electric Co.* v. *N. L. R. B.*, 102 F. (2d) 949, 954 (C. C. A. 7).

[67] *N. L. R. B.* v. *C. A. Lund*, 103 F. (2d) 815, 821 (C. C. A. 8). In this case the Court gave its advance approval to the allowance of such an amendment at the supplemental hearing after remand.

[68] *Consolidated Edison Co.* v. *N. L. R. B.*, *supra*.

discretion of the Board and is not ordinarily reviewable. *N. L. R. B.* v. *Ronni Parfum, Inc.*, 104 F. (2d) 1017 (C. C. A. 2); *Jefferson Electric Co.* v. *N. L. R. B.*, 102 F. (2d) 949, 955 (C. C. A. 7).[69] Absence of any actual prejudice in the presentation of its case deprives an employer of any sound cause for complaint on the ground of a refusal of a continuance.[70]

Exclusion of material evidence does not invalidate the proceedings.—When a trial examiner erroneously excludes material evidence, the aggrieved party may make application to the proper Circuit Court of Appeals for leave to adduce additional evidence. If this available remedy is not utilized, the procedural defect is waived. *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 226.[71]

Incompetent evidence may be admitted.—Section 10 (b) of the Act provides that in Board proceedings "the rules of evidence prevailing in courts of law or equity shall not be controlling." The Supreme Court has held that the admission in evidence of matters which would be deemed inadmissible under the strict rules of evidence does not invalidate the proceedings.[72]

Intermediate report and oral argument are not indispensable.—The absence of an intermediate report prepared by the trial examiner or proposed findings prepared by the Board does not invalidate the proceeding where the issues are otherwise adequately defined, as by the Board's complaint. *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 228.[73] Moreover, one who has not sought it may not complain of the lack of oral argument before the Board. *Ibid.*

PROCEDURE ON ENFORCEMENT AND REVIEW

Contempt proceedings may be brought by the Board.—It has been held that civil contempt proceedings for violation of an enforcing decree may be brought by the Board,[74] but by no one else; and specifically that the union which filed the charge is not entitled to do so.[75] Such proceedings are properly begun by filing a motion that the employer be adjudged in contempt and by serving a copy of the motion upon the attorney who appeared for the employer in the enforcement proceedings. All officers and agents responsible for a

[69] In the *Ronni* case it was held that previous plans made by the respondents' officers to be absent from the city on the date set for the hearing did not require the trial examiner to grant a continuance. In the *Jefferson* case, request for a continuance was made at the hearing when the Board amended its complaint to allege that the employer's contract with an independent union was invalid. Refusal of this request was held no abuse of discretion.

[70] *Jefferson Electric Co.* v. *N. L. R. B., supra; Swift & Co.* v. *N. L. R. B.*, 106 F. (2d) 87, 91 (C. C. A. 10). So also, during the previous fiscal year, *N. L. R. B.* v. *American Potash & Chemical Corp.*, 98 F. (2d) 488, 492 (C. C. A. 9), certiorari denied, 306 U. S. 643. In that case the employer was given only 8 days in which to prepare 17 discharge cases. Denial of a postponement of the hearing was upheld, however, the Court observing that, if respondent had really been unable to put in an adequate defense by reason of insufficient time to prepare, it could have requested additional time for preparation at the conclusion of the Board's case and asked to have Board witnesses recalled for such additional cross-examination as it desired to make.

[71] Affirming a holding to the same effect in *Consolidated Edison Co.* v. *N. L. R. B.*, 95 F. (2d) 390, 397 (C. C. A. 2). *Cf. Jefferson Electric Co.* v. *N. L. R. B.*, 102 F. (2d) 949, 954 (C. C. A. 7); *Wilson & Co.* v. *N. L. R. B.* 103 F. (2d) 243, 245 (C. C. A. 8); *Swift & Co.* v. *N. L. R. B.*, 106 F. (2d) 87, 91 (C. C. A. 10).

[72] *Consolidated Edison Co.* v. *N. L. R. B., supra,* at 229; *N. L. R. B.* v. *Hearst,* 102 F. (2d) 658, 663 (C. C. A. 9).

[73] So also, *N. L. R. B.* v. *Hearst,* 102 F. (2d) 658, 662–3 (C. C. A. 9); *N. L. R. B.* v. *Bites-Coleman Lumber Co.*, 98 F. (2d) 16, 18 (C. C. A. 9). So also, during the preceding fiscal year, *N. L. R. B.* v. *Mackay Radio & Telegraph Co.*, 304 U. S. 333, 350.

[74] *N. L. R. B.* v. *Hopwood Retinning Co.*, 104 F. (2d) 302, 305 (C. C. A. 2).

[75] *Amalgamated Utility Workers* v. *Consolidated Edison Co.*, memorandum decision, 106 F. (2d) 991 (C. C. A. 2), certiorari granted, 60 S. Ct. 123.

corporation's failure to carry out the enforcing decree may be made party respondents and adjudged personally in contempt.[76]

Contempt proceedings may be used for the purpose of ascertaining the identity of the particular employees who are to be reinstated and the exact amount of back wages to be paid to each.[77]

Remand of a case to the Board for further proceedings is proper.—Despite the absence of any express provision in the Act for remand of cases to the Board, the Circuit Courts of Appeals may, in proper cases, resort to that procedure. *Ford Motor Co.* v. *N. L. R. B.*, 305 U. S. 364, 373. Remands have been approved for the purpose of taking additional evidence,[78] for the purpose of making additional findings on the basis of existing evidence,[79] for eliminating alleged procedural defects in the proceedings,[80] and for clarification of a Board order.[81]

The Board is not entitled to a remand as a matter of right; but if the court, in the exercise of its discretion, does remand the case, the employer has no just cause for complaint even though he is demanding affirmative relief and even though he believes that further proceedings will be unavailing to cure all the defects upon which he relies to have the Board's order set aside. Moreover, he cannot insist that the court, prior to the remand, decide any of the issues or give the Board any instructions as to how to cure alleged defects. *Ford Motor Co.* v. *N. L. R. B.*, 305 U. S. 364, 370, 375.

UNFAIR LABOR PRACTICES — SECTION 8 (1)

Disparagement of unions by employers constitutes an unfair labor practice.—Because employees are acutely sensitive to the views of those who are in authority over them, disparagement of unions by supervisory employees frequently constitutes a serious and coercive interference with the right of employees to organize collectively. Findings to that effect have been made by the Board in many cases, and by far the greatest number of these have been undisturbed by the courts on review. It may therefore be taken to have been established that section 8 (1) is violated, for example, when an employer asserts to his employees that unions use coercive tactics,[82] that union organizers are not to be trusted,[83] that unions are made up of reds, radicals, and Communists,[84] that the union will injure the employer's business and diminish employment,[85] that unions are value-

[76] *N. L. R. B.* v. *Hopwood Retinning Co., supra.*

[77] *N. L. R. B.* v. *Hopwood Retinning Co., supra; N. L. R. B.* v. *Carlisle Lumber Co.*, 99 F. (2d) 533, 539 (C. C. A. 9).

[78] *Ford Motor Co.* v. *N. L. R. B.*, 305 U. S. 364, 374; *Mooresville Cotton Mills* v. *N. L. R. B.*, 97 F. (2d) 959 (C. C. A. 4); *N. L. R. B.* v. *C. A. Lund*, 103 F. (2d) 815, 821 (C. C. A. 8). So also, during the previous fiscal year, *Agwilines, Inc.*, 1. N. L. R. B., 87 F. (2d) 146, 155 (C. C. A. 5).

[79] *Ford Motor Co.* v. *N. L. R. B., supra.*

[80] *Ford Motor Co.* v. *N. L. R. B., supra; Montgomery Ward & Co.* v. *N. L. R. B.*, 103 F. (2d) 147, 156 (C. C. A. 8).

[81] *N. L. R. B.* v. *Bell Oil, Burke-Divide & Reno Oil Co.*, 91 F. (2d) 509, 515 (C. C. A. 5) (decided during previous fiscal year).

[82] *N. L. R. B.* v. *Nebel Knitting Co.*, 103 F. (2d) 594, 595, enforcing *Matter of Nebel Knitting Co.* and *Amer. Fed. of Hosiery Workers*, 6 N. L. R. B. 284, 291.

[83] *Virginia Ferry Co.* v. *N. L. R. B.*, 101 F. (2d) 103 (C. C. A. 4), enforcing *Matter of Virginia Ferry Corp.* and *Masters, Mates and Pilots of Amer., No. 9 and Int. Seamen's Union*, 8 N. L. R. B. 730, 736.

[84] *N. L. R. B.* v. *Oregon Worsted Co.*, 96 F. (2d) 193, 194 (C. C. A. 9), enforcing *Matter of Oregon Worsted Co.* and *United Textile Workers of Amer., Local 2435*, 1 N. L. R. B. 915, 919, 922.

[85] *Hamilton-Brown Shoe Co.* v. *N. L. R. B.*, 104 F. (2d) 49, 53 (C. C. A. 8).

less and unnecessary in securing improvements in wages and working conditions,[86] or that it is unwise to join unions.[87]

Support of an independent union constitutes an unfair labor practice.—Contribution of support by an employer to an admittedly independent union constitutes a violation of section 8 (1) of the act. In the *Consolidated Edison* case, 305 U. S. 197, the Supreme Court upheld the Board's finding that the employer had unlawfully encouraged membership in a nationally affiliated labor union by discharge and threats of discharge of rival union members, by soliciting membership in the favored union, and by giving union organizers free access to company premises during working hours. Orders requiring the Edison companies to desist from such practices were enforced.

UNFAIR LABOR PRACTICES — SECTION 8 (2)

An employer may not exert even mild influence on behalf of an inside union of his employees. Board findings of unlawful domination, interference, and support of such a union were upheld in *Cudahy Packing Co.* v. *N. L. R. B.*, 102 F. (2d) 745, 751–2 (C. C. A. 8), even though, according to the Court's own statement, "Organization of it was conceived and initiated by the workmen themselves," and "the evidence, by no means show[ed] any flagrant interference, much less coercion of employees" and "company influence was relatively slight."[87a]

UNFAIR LABOR PRACTICES—SECTION 8 (5)

By the provisions of section 8 (5) of the Act, it is an unfair labor practice for an employer to "refuse to bargain collectively with the representatives of his employees." Under section 9 (a), the representatives designated by a majority of the employees in an appropriate unit are the exclusive bargaining representatives.

The general constitutionality of these provisions was upheld by the Supreme Court in April 1937, in its *Jones & Laughlin* decision;[88] and Board findings of unlawful refusal to bargain were subsequently upheld and made the basis for reinstatement of strikers in the *Remington Rand*, *Black Diamond*, *Jeffery-DeWitt*, and *Carlisle* cases.[89] Further judicial delineation of the extent of an employer's duty to bargain collectively has taken place during the past fiscal year.

An employer must, if requested, officially recognize the majority representative as the exclusive representative of all employees in the unit.—As a necessary prelude to collective bargaining, the employer must recognize the authority of the majority representative to speak for all the employees in the appropriate unit. *Fansteel Metallurgical*

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[86] *N. L. R. B.* v. *A. S. Abell Co.*, 97 F. (2d) 951, 955 (C. C. A. 4). *Contra, N. L. R. B.* v. *Union Pacific Stages*, 99 F. (2d) 153, 163 (C. C. A. 9).

[87] *N. L. R. B.* v. *Hearst*, 102 F. (2d) 658, 662 (C. C. A. 9).

[87a] Certiorari denied, October 9, 1939.

[88] *N. L. R. B.* v. *Jones & Laughlin Steel Corp.*, 301 U. S. 1, 45.

[89] *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585; *Black Diamond S. S. Corp.* v. *N. L. R. B.*, 94 F. (2d) 875 (C. C. A. 2), certiorari denied, 304 U. S. 579; *Jeffery-DeWitt Insulator Co.* v. *N. L. R. B.*, 91 F. (2d) 134 (C. C. A. 4), certiorari denied, 302 U. S. 731; *N. L. R. B.* v. *Carlisle Lumber Co.*, 94 F. (2d) 138 (C. C. A. 9), certiorari denied, 304 U. S. 575. See Third Annual Report, p. 231.

Corp. v. *N. L. R. B.*, 306 U. S. 240, 251–2.[90] In other words, the employer's duty to bargain is not discharged even if he meets with the union's representatives,[91] and even if he discusses the union's proposed contract, section by section.[92]

Nor is his duty to recognize the exclusive status of the majority representative relieved by any alleged doubt as to the appropriateness of the unit claimed by the representative or as to its majority within that unit, if his refusal is in fact predicated upon the broader ground of his unwillingness to deal with unions or "outsiders." [93]

As a corollary of this principle, an employer engages in an unfair labor practice within the meaning of section 8 (5) if, while a legitimate majority representative is seeking to bargain collectively with him, he recognizes or negotiates with any other representative,[94] or if he attempts to induce his employees to enter into individual contracts covering the matters regarding which their representatives are endeavoring to bargain collectively,[95] or if in any other manner he attempts to induce his employees to forego collectively bargaining and deal with him as individuals.[96]

A good-faith effort to find a basis for agreement is a part of the bargaining obligation.—The employer must make a sincere effort, when requested to bargain, to find some basis for agreement with the representative of the employees regarding the issues presented.[97] Failure to submit counter proposals, especially if such proposals are requested, may be an indication of the absence of any such genuine effort.[98]

The bargaining obligation involves a willingness to reduce matters agreed upon to a contract.—

The Act contemplates the making of contracts with labor organizations. That is the manifest objective in providing for collective bargaining.

This declaration of the Supreme Court in *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197, 236, reaffirmed by a similar utterance in

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[90] Affirming the findings and conclusions of law made by the Board on this point in *Matter of Fansteel Metallurgical Corp.* and *Amal. Ass'n of Iron, Steel and Tin Workers of North America, Local No. 66*, 5 N. L. R. B. 930, 941. So also, *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 680–1 (C. C. A. 6), certiorari denied, October 9, 1939, enforcing *Matter of Louisville Refining Co.* and *Int. Ass'n, Oil Field, Gas Well and Refinery Workers of America*, 4 N. L. R. B. 844, 853, 876; *Globe Cotton Mills* v. *N. L. R. B.*, 103 F. (2d) 91, 94 (C. C. A., A. 5); *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 22 (C. C. A. 9). So also, during the preceding fiscal year: *N. L. R. B.* v. *Pennsylvania Greyhound Lines, Inc.*, 303 U. S. 261, 267; *Agwilines, Inc.* v. *N. L. R. B.*, 87 F. (2d) 146, 153 (C. C. A. 5).

[91] *Fansteel Metallurgical Corp.* v. *N. L. R. B.*; *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, both *supra*.

[92] *N. L. R. B.* v. *Louisville Refining Co.*; *Globe Cotton Mills* v. *N. L. R. B.*, both *supra*.

[93] Doubt as to unit rejected as defense: *N. L. R. B.* v. *Lund*, 103 F. (2d) 815, 818 (C. C. A. 8); *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 22 (C. C. A. 9); *N. L. R. B.* v. *National Motor Bearing Co.*, 105 F. (2d) 652, 660 (C. C. A. 9).

Doubt as to majority rejected as defense: *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 680 (C. C. A. 6), certiorari denied, October 9, 1939. So also, during the previous fiscal year, *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862, 869 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585.

[94] *N. L. R. B.* v. *Jones & Laughlin Steel Corp.*, 301 U. S. 1, 44–5; *N. L. R. B.* v. *Union Pacific Stages, Inc.*, 99 F. (2d) 153, 159 (C. C. A. 9); *N. L. R. B.* v. *National Motor Bearing Co.*, 105 F. (2d) 652, 659–60 (C. C. A. 9).

[95] *N. L. R. B.* v. *Hopwood Retinning Co.*, 98 F. (2d) 97, 100 (C. C. A. 2); *N. L. R. B.* v. *National Licorice Co.*, 104 F. (2d) 655, 657 (C C. A. 2), certiorari granted, October 9, 1939.

[96] *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 22 (C. C. A. 9).

[97] *Globe Cotton Mills* v. *N. L. R. B.*, 103 F. (2d) 91, 94 (C. C. A. 5). So also, during preceding fiscal year, *Agwilines, Inc.* v. *N. L. R. B.*, 87 F. (2d) 146, 153 (C. C. A. 5).

[98] *Globe Cotton Mills* v. *N. L. R. B.*, *supra*; *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 680 (C. C. A. 6), certiorari denied, October 9, 1939, affirming and enforcing *Matter of Louisville Refining Co.* and *Int. Ass'n, Oil Field, Gas Well and Refinery Workers of America*, 4 N. L. R. B. 844, 854. So also, during preceding fiscal year, *Agwilines, Inc.* v. *N. L. R. B.*, *supra*, enforcing *Matter of Agwilines, Inc.*, and *Int. Longshoremen's Ass'n, Local No. 1402*, 2 N. L. R. B. 1, 15–16.

N. L. R. B. v. *Sands Mfg. Co.*, 306 U. S. 332, 342, clearly indicates that an employer's obligations under the Act are not satisfied if he declines to reduce points agreed upon as a consequence of collective bargaining to a contract between the parties. Such is the express holding of the Fifth Circuit in *Globe Cotton Mills* v. *N. L. R. B.*, 103 F. (2d) 91, 94.[99] Correspondingly, an employer violates his bargaining obligation if he insists upon embodying the fruit of the negotiations in individual contracts with employees rather than in a collective agreement with the representative of the employees.[1]

The subject matter regarding which an employer is obligated to bargain collectively includes the interpretation or modification of an existing contract.—In *N. L. R. B.* v. *Sands Mfg. Co.*, 306 U. S. 332, 342, the Supreme Court indicated that the existence of a collective contract for a definite term between an employer and a union does not free the employer from a duty to negotiate with the union regarding differences of opinion as to its interpretation or regarding the union's suggestions for its modification.

Necessity for a definite request for collective bargaining.—In *N. L. R. B.* v. *Columbian Enameling and Stamping Co.*, 306 U. S. 292, 297, the Supreme Court held that section 8 (5) of the Act is not violated unless the employees' representative makes a definite request for negotiations. In that case the Court held that overtures made to an employer by Federal conciliators at the union's request did not constitute a sufficient request, inasmuch as it did not expressly appear whether the conciliators, in their several hours' conversation with the employer, actually informed him that they were seeking to open negotiations at the request of the union involved.[2]

Determination of majority representatives.—Loss of employee status, as defined in section 2 (3) of the Act (see p. 125 ff, *supra*), disentitles a worker to be counted in computing his union's majority. *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240, 261–2; *N. L. R. B.* v. *Sands Mfg. Co.*, 306 U. S. 332, 334.[3]

Membership records kept by the union, consisting of application cards signed by employees, are adequate proof of the union's majority. *Fansteel Metallurgical Corp.* v. *N. L. R. B.*, 306 U. S. 240.[4] When employees who have previously designated a union as their bargaining agent are induced by their employer to express themselves as

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[99] In this case the Court held that the employer was obligated to make a binding contract with the union embodying at least the employer's present policy regarding wages, hours, and working conditions, if the union desired it, even though some of those policies were well established and noncontroversial.

[1] *N. L. R. B.* v. *Hopwood Retinning Co.*, 98 F. (2d) 97, 100 (C. C. A. 2); *Globe Cotton Mills* v. *N. L. R. B.*, 103 F. (2d) 91, 94 (C. C. A. 5); *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 680 (C. C. A. 6), certiorari denied October 9, 1939, affirming and enforcing *Matter of Louisville Refining Co.* and *Int. Ass'n, of Oil Field, Gas Well and Refinery Workers of America*, 4 N. L. R. B. 844, 860.

[2] Justices Black and Reed dissented, pointing out that, under the circumstances, the employer could scarcely have been unaware that the union desired to negotiate, and noting that the Court below had upheld the Board's finding to that effect. 306 U. S., at 303–4.

[3] So also, during the previous fiscal year, *Standard Lime & Stone Co.* v. *N. L. R. B.*, 97 F. (2d) 531, 535 (C. C. A. 4).

[4] Sustaining the Board's findings to that effect in *Matter of Fansteel Metallurgical Corp.* and *Amal. Ass'n of Iron, Steel and Tin Workers of N. Amer., No. 66*, 5 N. L. R. B. 930, 940–1. So also, *N. L. R. B.* v. *Louisville Refining Co.*, 102 F. (2d) 678, 680 (C. C. A. 6), certiorari, denied October 9, 1939; *N. L. R. B.* v. *C. A. Lund*, 103 F. (2d) 815, 818 (C. C. A. 8), enforcing *Matter of C. A. Lund, etc.*, and *Woodenware Workers Union, Local No. 20481, etc.*, 6 N. L. R. B. 423, 435; *N. L. R. B.* v. *National Motor Bearing Co.*, 105 F. (2d) 652, 660 (C. C. A. 9).

opposed to that union or in favor of a company-dominated union, the Board may properly disregard that expression in determining whether the legitimate union remained the majority representative of the employees. *N. L. R. B.* v. *Kiddie Kover Mfg. Co.*, 105 F. (2d) 179, 182 (C. C. A. 6).[5]

Unit appropriate for collective bargaining.—Employees working in different cities for different corporate employers may be placed together in the same bargaining unit where both corporations are controlled by the person and where the work performed is of similar nature. *N. L. R. B.* v. *C. A. Lund*, 103 F. (2d) 815, 818 (C. C. A. 8).[6]

Other factors which may properly influence the Board's decision to include one group of employees with others in a large unit are the desire of the employees to be included and the geographical proximity of their place of residence to that of the employees in the larger unit. *N. L. R. B.* v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18, 21 (C. C. A. 9).

D. CUMULATIVE SUMMARY OF LITIGATION FOR FISCAL YEAR, 1939

I. Proceedings for the Enforcement or Review of Board Orders

A. PROCEEDINGS ON THE MERITS

Supreme Court Cases

1. Cases in which the Supreme Court upheld orders of the Board:
   N. L. R. B. v. *Fainblatt et al.*, 306 U. S. 601.
2. Cases in which the Supreme Court enforced modified orders of the Board:
   Consolidated Edison Co. et al. v. *N. L. R. B.*, 305 U. S. 197.
   Fansteel Metallurgical Corp. v. *N. L. R. B.*, 306 U. S. 240.
3. Cases in which the Supreme Court denied enforcement to orders of the Board:
   N. L. R. B. v. *Columbian Enameling & Stamping Co.*, 306 U. S. 292.
   N. L. R. B. v. *Sands Mfg. Co.*, 306 U. S. 332.
4. Cases in which the Supreme Court denied petitions for writs of *certiorari* to review decisions of Circuit Courts of Appeals enforcing Board orders:
   N. L. R. B. v. *American Potash & Chemical Co.*, 306 U. S. 643.
   N. L. R. B. v. *Carlisle Lumber Co.*, 306 U. S. 646.
   Memphis Furniture Mfg. Co. v. *N. L. R. B.*, 305 U. S. 627.
5. Cases in which the Supreme Court denied a petition for writ of *certiorari* to review decision of Circuit Court of Appeals denying enforcement of a Board order:
   Peninsular & Occidental S. S. Co. v. *N. L. R. B.*, 305 U. S. 653.
6. Cases in which the Supreme Court granted petitions for writs of certiorari to review decisions of Circuit Courts of Appeals modifying order of the Board, in which no decision or final hearing had been rendered by the Supreme Court at the end of the fiscal year:
   Newport News Shipbuilding & Dry Dock Co. et al. v. *N. L. R. B.*[6a]

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[5] So also, *N. L. R. B.* v. *C. A. Lund, supra.* So also, during the previous fiscal year, *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862, 870 (C. C. A. 2), cert. denied, 304 U. S. 576, 585.

[6] Cf. *N. L. R. B.* v. *Remington Rand, Inc.*, 94 F. (2d) 862, 868 (C. C. A. 2), certiorari denied, 304 U. S. 576, 585, where several different plants in different cities, but operated by the same corporation, were included in a single unit against the employer's protest.

[6a] Decision of Circuit Court of Appeals reversed December 4, 1939.

Circuit Courts of Appeals Cases

1. Circuit Court decisions granting enforcement of Board orders.

(a) Board orders enforced without modification:

N. L. R. B. v. *Biles-Coleman Lumber Co.*, 98 F. (2d) 18 (C. C. A. 9).
N. L. R. B. v. *Carlisle Lumber Co.*, 99 F. (2d) 533 (C. C. A. 9), certiorari denied, 306 U. S. 646
N. L. R. B. v. *Crowe Coal Co.*, 104 F. (2d) 633 (C. C. A. 8).[7]
Cudahy Packing Co. v. *N. L. R. B.*, 102 F. (2d) 745 (C. C. A. 8).[7]
N. L. R. B. v. *The Falk Corp.*, 102 F. (2d) 383 (C. C. A. 7).[8]
N. L. R. B. v. *Fashion Piece Dye Works*, 100 F. (2d) 304 (C. C. A. 3).
N. L. R. B. v. *Wm. R. Hearst, et al.*, 102 F. (2d) 658 (C. C. A. 9).
N. L. R. B. v. *Kiddie Kover Mfg. Co. et al.*, 105 F. (2d) 179 (C. C. A. 6).
N. L. R. B. v. *C. A. Lund, et al.*, 103 F. (2d) 815 (C. C. A. 8).
N. L. R. B. v. *Pure Oil Co.*, 103 F. (2d) 497 (C. C. A. 5).
N. L. R. B. v. *Ronni Parfum, Inc.*, 104 F. (2d) 1017 (C. C. A. 2).
N. L. R. B. v. *Stackpole Carbon Co.*, 105 F. (2d) 167 (C. C. A. 3).[9]

(b) Board orders enforced as modified by Circuit Court decision:

N. L. R. B. v. *A. S. Abell Co.*, 97 F. (2d) 951 (C. C. A. 4).
Burlington Dyeing & Finishing Co. v. *N. L. R. B.*, 104 F. (2d) 736 (C. C. A. 4).
N. L. R. B. v. *Eagle Mfg. Co.*, 99 F. (2d) 930 (C. C. A. 4).[10]
Globe Cotton Mills, Inc. v. *N. R. L. B.*, 103 F. (2d) 91 (C. C. A. 5).
Hamilton-Brown Shoe Co., et al. v. *N. L. R. B.*, 10 4F. (2d) 49 (C. C. A. 8).
N. L. R. B. v. *Hopwood Retinning Co., Inc., et al.*, 98 F. (2d) 97, (C. C. A. 2).
N. L. R. B. v. *Louisville Refining Co.*, 102 F. (2d) 678 (C. C. A. 6).[7 10]
Mooresville Cotton Mills v. *N. L. R. B.*, 97 F. (2d) 959 (C. C. A. 4).
N. L. R. B. v. *National Licorice Co.*, 104 F. (2d) 655 (C. C. A. 2).[12]
N. L. R. B. v. *National Motor Bearing Co.*, 105 F. (2d) 652 (C. C. A. 9).
N. L. R. B. v. *Nebel Knitting Co., Inc.*, 103 F. (2d) 594 (C. C. A. 4).[10]
Newport News Shipbuilding & Dry Dock Co. v. *N. L. R. B.*, 101 F. (2d) 841 (C. C. A. 4), certiorari granted, 59 S. Ct. 793.
Swift & Co. v. *N. L. R. B.*, 106 F. (2d) 87 (C. C. A. 10).[10]
N. L. R. B. v. *Union Pacific Stages, Inc.*, 99 F. (2d) 153 (C. C. A. 9).
Virginia Ferry Corp. v. *N. L. R. B.*, 101 F. (2d) 103 (C. C. A. 4).[10]
Waterman Steamship Corp. v. *N. L. R. B.*, 103 F. (2d) 157 (C. C. A. 5).[11]
Wilson & Co. v. *N. L. R. B.*, 103 F. (2d) 243 (C. C. A. 8).

2. Circuit Court decisions denying enforcement of Board orders:

Ballston-Stillwater Knitting Co. v. *N. L. R. B.*, 98 F. (2d) 758 (C. C. A. 2).
N. L. R. B. v. *Bell Oil & Gas Co.*, 98 F. (2d) 406 (C. C. A. 5).
Fansteel Metallurgical Corp. v. *N. L. R. B.*, 98 F. (2d) 375 (C. C. A. 7), reversed in part, 306 U. S. 240.
N. L. R. B. v. *Fainblatt, et al.*, 98 F. (2d) 615 (C. C. A. 3), reversed, 306 U. S. 601.
N. L. R. B. v. *Idaho Maryland Mines Corp.*, 98 F. (2d) 129 (C. C. A. 9).
Jefferson Electric Co. v. *N. L. R. B.*, 102 F. (2d) 949 (C. C. A. 7).
M & M Wood Working Co. v *N. L. R. B.*, 101 F. (2d) 938 (C. C. A. 9).
Montgomery Ward & Co. v. *N. L. R. B.*, 103 F. (2d) 147 (C. C. A. 8).
Peninsular & Occidental Steamship Corp., 98 F. (2d) 411 (C. C. A. 5). certiorari denied, 305 U. S. 653.

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[7] Certiorari denied, October 9, 1939.
[8] Certiorari granted November 13, 1939.
[9] Certiorari denied, November 6, 1939.
[10] Modified only as to form of notice to be posted.
[11] Certiorari granted, October 9, 1939.
[12] Reversed, December 4, 1939.

B. CONSENT DECREES

First Circuit

Atlas Tack Corp., entered March 22, 1939, enforcing 9 N. L. R. B. 107.
Kingsbury Mfg. Co., entered June 24, 1939, enforcing as modified 10 N. L. R. B. 354.
Murray Shoe Co., Inc., entered March 22, 1939, enforcing 10 N. L. R. B. 1085.

Second Circuit

Elbe File & Binder Co., entered March 17, 1939, enforcing as modified 2 N. L. R. B. 906.
Federal Carton Corp., entered October 25, 1938, enforcing 5 N. L. R. B. 879.
Firth Carpet Co., entered April 14, 1939, enforcing 10 N. L. R. B. 944.
Cating Rope Works, Inc., entered October 3, 1938, enforcing 4 N. L. R. B. 1100.
Hatfield Wire & Cable Co., entered April 26, 1939, enforcing 10 N. L. R. B. 763.
Kessner & Rabinowitz and *Little Prince Corp.*, entered May 6, 1939, enforcing 11 N. L. R. B. 1192.
V. LaRosa & Sons, entered March 13, 1939, enforcing 10 N. L. R. B. 218.
M. Lowenstein & Sons, Inc., entered October 24, 1938, enforcing 6 N. L. R. B. 216, 9 N. L. R. B. 419.
Miller Corsets, Inc., entered January 9, 1939, enforcing 8 N. L. R. B. 12.
National Herald Inc., entered January 20, 1939, enforcing 9 N. L. R. B. 893.
Omaha Hat Co., entered October 24, 1938, enforcing 4 N. L. R. B. 878.
Oneita Knitting Mills, entered March 13, 1939, enforcing 10 N. L. R. B. 587.
Sa-Ga-Mor Metal Goods Corp. and *Metalfield Inc.*, entered June 12, 1939, enforcing 12 N. L. R. B., No. 84.
Tiny Town Togs, Inc., entered December 30, 1938, enforcing 7 N. L. R. B. 54.
Volupte, Inc., entered April 14, 1939, enforcing 11 N. L. R. B. 997.

Third Circuit

Abrasive Company, entered March 20, 1939, enforcing 7 N. L. R. B. 908.
Breeze Corporations, Inc., entered May 8, 1939, enforcing 10 N. L. R. B. 1161.
Consolidated Cigar Corp., entered May 4, 1939, enforcing 11 N. L. R. B. 1075.
Demarest Silk Mill, entered March 10, 1939, enforcing 9 N. L. R. B. 1002.
Eavenson & Levering, entered December 30, 1938, enforcing 8 N. L. R. B. 602, 10 N. L. R. B. 785.
Freed Heater Mfg. Co., entered March 13, 1939, enforcing 8 N. L. R. B. 961.
Gudebrod Bros. Silk Co., Inc., entered May 19, 1939, enforcing 9 N. L. R. B. 1195.
Hanover Cordage Co., entered May 25, 1939, enforcing 12 N. L. R. B. 507.
G. Krueger Brewing Co., entered June 1, 1939, enforcing 12 N. L. R. B. 494.
The Mode Novelty Co., entered May 22, 1939, enforcing 12 N. L. R. B. 501.
National Pneumatic Company, entered May 12, 1939, enforcing 10 N. L. R. B. 1481.
Race Brothers, entered May 12, 1939, enforcing 12 N. L. R. B., No. 64.
Sunnyvale, Inc., entered March 9, 1939, enforcing 10 N. L. R. B. 383.
Supplee-Wills-Jones Milk Co., entered April 17, 1939, enforcing 11 N. L. R. B. 977.

Syntex Fabrics, Inc., entered March 10, 1939, enforcing 9 N. L. R. B. 1002.
Trenton-Philadelphia Coach Co., entered October 11, 1938, enforcing 6 N. L. R. B. 112.
United Container Company, entered June 1, 1939, enforcing 12 N. L. R. B. 521.

Fourth Circuit

The Afro-American Co., entered April 28, 1939, enforcing 11 N. L. R. B. 1185.
The Afro-American Co., entered April 28, 1939, enforcing 11 N. L. R. B. 1200.
Baltimore Type & Composition Corp., entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Fleet-McGinley Company, entered January 19, 1939, enforcing 9 N. L. R. B 1011.
Franklin Printing Company, entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Hearst Consolidated Publications, entered April 28, 1939, enforcing as modified, 10 N. L. R. B. 1299.
Lucas Brothers, entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Maryland Color Printing Co., entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Mock-Judson-Voehringer Co., entered April 28, 1939, enforcing as modified, 8 N. L. R. B. 133.
National Weaving Co., entered February 27, 1939, enforcing as modified, 7 N. L. R. B. 743.
Revolution Flannel Workers Union & Revolution Cotton Mills, entered April 17, 1939, setting aside 9 N. L. R. B. 468
Schneiderith & Sons, entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Harry S. Scott, Inc., entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Spartan Mills, entered June 14, 1939, enforcing 12 N. L. R. B. 455.
Summers Printing Co., 101 F. (2d) 1016, enforcing 9 N. L. R. B. 1011.
Mary V. Thalheimer (Meyer & Thalheimer), entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Titmus Optical Co., entered April 3, 1939, enforcing as modified, 9 N. L. R. B. 1026, 10 N. L. R. B. 683.
Thomsen-Ellis Company, entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Vaughan Furniture Co., entered April 4, 1939, enforcing 9 N. L. R. B. 1249.
Watkins Printing Company, entered January 19, 1939, enforcing 9 N. L. R. B. 1011.
Waverly Press, Inc., entered January 19, 1139, enforcing 9 N. L. R. B. 1011.

Fifth Circuit

American Manufacturing Co., entered December 9, 1938, enforcing as modified, 7 N. L. R. B. 375.
Associated Motor Carriers of La., Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
R. Burke, entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Consolidated Chemical Industries, Inc., entered April 13, 1939, enforcing 11 N. L. R. B. 1228.
Mrs. Maude Joyner Conway, entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Crescent Forwarding & Trans. Co., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Dennis Sheen Transfer, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Douglas Transfer, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.

Dupuy Storage & Forwarding Corp., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Ernst Bros., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Estate of Frank Newfield, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Rebecca Fabacher, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Folse Drayage, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
General Shoe Co., 99 F. (2d) 223, enforcing 5 N. L. R. B. 1005.
Hamann's Transfer Co., Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
George J. Hefler, entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Harvey H. Huth, doing business as St. Charles Transfer Co., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
S. Jackson & Son, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Letellier Transfer, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Maloney Trucking & Storage, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Milan Manufacturing Co., entered April 13, 1939, enforcing 8 N. L. R. B. 1196.
Oberman & Company, entered May 5, 1939, enforcing 11 N. L. R. B. 1238.
Pine Mountain Granite Co., entered May 11, 1939, enforcing 8 N. L. R. B. 1125.
Reed Brothers, Inc., entered April 13, 1939, enforcing 8 N. L. R. B. 1190.
Riverside Transfer, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Service Drayage Co., Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
J. A. Thomas, Prop., Thomas Trucking & Freight Forwarding, entered March 2, 1939, enforcing 11 N. L. R. B. 173.
A. L. Tucker, entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Tupelo Garment Co., entered April 13, 1939, enforcing 8 N. L. R. B. 1181.
Young's Transfer, Inc., entered March 2, 1939, enforcing 11 N. L. R. B. 173.
Waggoner Refining Co., entered January 4, 1939, enforcing as modified, 6 N. L. R. B. 731; 7 N. L. R. B. 78; 8 N. L. R. B. 789.

Sixth Circuit

Detroit Lubricator Company, entered June 28, 1939, enforcing 13 N. L. R. B. 17.
Greer Steel Co., 102 F. (2d) 1003, enforcing 10 N. L. R. B. 1233.
The Harter Corp., 102 F. (2d) 989, enforcing 8 N. L. R. B. 391.
Rockwood Mills, 101 F. (2d) 1015, enforcing 9 N. L. R. B. 1225.
Bernard Schwartz Cigar Corp., entered May 9, 1939, enforcing 12 N. L. R. B. 4.
Semet-Solvay Company, 100 F. (2d) 1020, enforcing 7 N. L. R. B. 511.
Stearns Coal & Lumber Co., entered May 9, 1939, 11 N. L. R. B. 423.
Triplett Electric Co., 102 F. (2d) 1004, enforcing 5 N. L. R. B. 835.
Wheeling Steel Corp., entered January 19, 1939, enforcing 1 N. L. R. B. 699.

Seventh Circuit

The Atlas Underwear Co., entered April 19, 1939, enforcing 10 N. L. R. B. 1264.
Boynton & Co., entered June 15, 1939, enforcing 12 N. L. R. B. 221.
Brazil Mfg. Co., entered April 13, 1939, enforcing 10 N. L. R. B. 578.
The Connor Lumber & Land Co., 102 F. (2d) 998, enforcing 10 N. L. R. B. 831.
The Connor Lumber & Land Co., 102 F. (2d) 1000, enforcing 10 N. L. R. B. 843.

Eagle Glove & Garment Co., entered May 24, 1939, enforcing 10 N. L. R. B. 807.
Gerling Furniture Mfg. Co., Inc., entered March 21, 1939, enforcing 9 N. L. R. B. 1189.
Harnischfeger Corporation, entered June 6, 1939, enforcing, as modified, 9 N. L. R. B. 676.
Hirsch Shirt Corporation, entered June 5, 1939, 12 N. L. R. B. 533.
Kingan & Co., Inc., entered May 3, 1939, enforcing 8 N. L. R. B. 1063.
LaCross Garment Industries, entered January 23, 1939, enforcing 4 N. L. R. B. 190; 5 N. L. R. B. 127.
Metal Door & Trim Company, entered June 2, 1939, enforcing 12 N. L. R. B. 530.
Mine "B" Coal Co. and *The Mine "B" Coal Co.*, entered June 15, 1939, enforcing 8 N. L. R. B. 1155.
Moline Iron Works, entered May 8, 1939, enforcing 9 N. L. R. B. 664.
National Tea Company, entered May 3, 1939, enforcing 9 N. L. R. B. 161.
Northwestern Mfg. Co., entered April 13, 1939, enforcing 10 N. L. R. B. 578.
Richland Co-operative Creamery, entered March 27, 1939, enforcing 8 N. L. R. B. 713.
Seymour Woolen Mills, 101 (2d) 1015, enforcing 8 N. L. R. B. 373.
Shallabarger Grain Products Co., entered May 8, 1939, enforcing as modified, 8 N. L. R. B. 336.
Western Felt Works, entered March 25, 1939, 10 N. L. R. B. 407.
Zenite Metal Corp., 102 F. (2d) 1006, enforcing 5 N. L. R. B. 509.

Eighth Circuit

American Radiator Company, 102 F. (2d) 974, enforcing 7 N. L. R. B. 1127.
Bluff City Line Co., entered April 7, 1939, enforcing 10 N. L. R. B. 918.
Clinton Garment Co. and *R. & M. Kaufmann, Inc.*, entered June 19, 1939, enforcing 8 N. L. R. B. 775.
Crossett Lumber Co., 102 F. (2d) 1003, enforcing 8 N. L. R. B. 440.
Killark Electric Mfg. Co., 102 F. (2d) 1004, enforcing 7 N. L. R. B. 1157.
Koch Butcher Supply, entered June 5, 1939, enforcing 9 N. L. R. B. 1039.
Lipscomb Grain & Seed Company, entered April 22, 1939, enforcing 9 N. L. R. B. 1157.
Peerless White Lime Co., entered April 7, 1939, enforcing 10 N. L. R. B. 933.
Pittsburgh Plate Glass Co., 102 F. (2d) 1004, enforcing 8 N. L. R. B. 1210.
Radcliff Motor Company, entered May 12, 1939, enforcing 10 N. L. R. B. 684.
Schreiber Milling & Grain Co., entered May 23, 1939, enforcing 12 N. L. R. B. 513.
Ste. Genevieve Lime & Quarry Co., entered April 7, 1939, enforcing 10 N. L. R. B. 926.
Western Union Co., entered March 23, 1939, enforcing 7 N. L. R. B. 974.

Ninth Circuit

Alaskan Glacier Sea Food Co., 102 F. (2d) 997, enforcing 7 N. L. R. B. 794.
Blockson & Company, entered May 1, 1939, enforcing 11 N. L. R. B. 1462.
Eastern & Western Lumber Co., entered May 8, 1939, enforcing 3 N. L. R. B. 855.
Inman-Poulsen Lumber Co., entered May 8, 1939, enforcing 3 N. L. R. B. 855.
B. F. Johnson Lumber Company, entered May 8, 1939, enforcing 3 N. L. R. B. 855.
Jones Lumber Company, entered May 8, 1939, enforcing 3 N. L. R. B. 855.
Kingsley Lumber Company, entered May 1, 1939, enforcing 11 N. L. R. B. 1058.
Meadow Valley Lumber, 101 F. (2d) 1014, enforcing 7 N. L. R. B. 702.
Padre Vineyard Company, entered May 8, 1939, enforcing 11 N. L. R. B. 1121.

L. C. Phenix Co., 100 F. (2d) 1017, enforcing 9 N. L. R. B. 181.
Portland Lumber Mills Co., entered May 8, 1939, enforcing 3 N. L. R. B. 855.
Red River Company, 101 F. (2d) 1014, enforcing 10 N. L. R. B. 594.
Roche Harbor Lime & Cement Co., entered May 22, 1939, enforcing 9 N. L. R. B. 1047.
Southeast Portland Lumber Co., entered May 1, 1939, enforcing 11 N. L. R. B. 1081.
Union Die Casting Co., Ltd., 102 F. (2d) 1006, enforcing 7 N. L. R. B. 846.

Tenth Circuit

Nutrena Mills, Inc., entered June 27, 1939, enforcing 12 N. L. R. B. 1123.
Williams Meat Co., entered May 24, 1939, enforcing 12 N. L. R. B. 778.

C. CASES PENDING IN CIRCUIT COURTS OF APPEALS

First Circuit Court of Appeals

Bethlehem Shipbuilding Corp. v. *N. L. R. B.*
N. L. R. B. v. *Bradford Dyeing Ass'n.*
N. L. R. B. v. *Eagle Shoe Mfg. Co.*
N. L. R. B. v. *H. E. Fletcher Co.*
N. L. R. B. v. *Joseph Freeman Shoe Co.*
General Body of Employees Representatives (Bethlehem Shipbuilding Co.) v. *N. L. R. B.*
N. L. R. B. v. *National Shoe Corp.*
N. L. R. B. v. *Somerset Shoe Co.*

Second Circuit Court of Appeals

N. L. R. B. v. *American Manufacturing Co.*
N. L. R. B. v. *Centre Brass Works, Inc.*
N. L. R. B. v. *Dahlstrom Metallic Door Co.*
N. L. R. B. v. *Eastern Footwear Corp.*
Fedders Manufacturing Co. v. *N. L. R. B.*
N. L. R. B. v. *National Casket Co.*
N. L. R. B. v. *National Meter Company.*
N. L. R. B. v. *Rabhor Co., Inc.*
Awaiting supplemental findings of the Board pursuant to order of Court remanding case to Board for the taking of additional testimony.
N. L. R. B. v. *Scandore Paper Box Co.*
N. L. R. B. v. *Timken Silent Automatic Co.*
Supplemental findings have been furnished the Court pursuant to Court's order remanding case to the Board for the taking of additional testimony.

Third Circuit Court of Appeals

Arcadia Hosiery Co. v. *N. L. R. B.*
N. L. R. B. v. *Botany Worsted Mills, Inc.*
N. L. R. B. v. *Griswold Mfg. Co.*
N. L. R. B. v. *La Salle Hat Co.*
McNeely & Price Co. v. *N. L. R. B.*
Republic Steel Corp. v. *N. L. R. B.*
Southern Steamship Co. v. *N. L. R. B.*
N. L. R. B. v. *Swank Products, Inc.*
Titan Metal Mfg. Co. v. *N. L. R. B.*
Union Drawn Steel Co. v. *N. L. R. B.*
Whiterock Quarries v. *N. L. R. B.*
Awaiting action by Board. Consent order remanding case to Board for the taking of additional evidence entered March 28, 1939.

Fourth Circuit Court of Appeals

N. L. R. B. v. *Asheville Hosiery Company.*
N. L. R. B. v. *Phillips Packing Co.* Awaiting action by Board. Case remanded to Board on consent order August 30, 1938, for the purpose of adducing additional testimony.
N. L. R. B. v. *Planters Mfg. Co.*

Fifth Circuit Court of Appeals

N. L. R. B. v. *Eagle & Phenix Mills.*
N. L. R. B. v. *Lane Cotton Mills Co.*
Mexia Textile Mills v. *N. L. R. B.*

Sixth Circuit Court of Appeals

N. L. R. B. v. *Berkey & Gay Furniture Co.*
Consumers Power Co. v. *N. L. R. B.*
N. L. R. B. v. *Empire Furniture Corp.*
N. L. R. B. v. *The Good Coal Company.*
H. J. Heinz Co. v. *N. L. R. B.*
Midland Steel Products Co. v. *N. L. R. B.*
N. L. R. B. v. *Piqua Munising Wood Products Co.*
N. L. R. B. v. *Thompson Products, Inc.*
N. L. R. B. v. *West Kentucky Coal Co.*
N. L. R. B. v. *The Williams Mfg. Co.*

Seventh Circuit Court of Appeals

Armour and Co. v. *N. L. R. B.* Pending on petition to review. Motion for stay of election denied, 105 F. (2d) 1016.
N. L. R. B. v. *Boss Manufacturing Co.*
C. G. Conn, Ltd. v. *N. L. R. B.*
Employees Mutual Ass'n (Armour & Co.) v. *N. L. R. B.*
N. L. R. B. v. *J. Greenbaum Tanning Co.*
N. L. R. B. v. *Hemp and Co.*
Inland Steel Co. v. *N. L. R. B.* Pending on petition to review. Interrogatories denied, 105 F. (2d) 246.
N. L. R. B. v. *Kuehne Mfg. Co.*
Link Belt Co. v. *N. L. R. B.*
Montgomery Ward & Co. v. *N. L. R. B.*
N. L. R. B. v. *Swift and Company.*

Eighth Circuit Court of Appeals

Boot and Shoe Workers Union (Hamilton-Brown Shoe Company) v. *N. L. R. B.* Awaiting action by Board on remand.
N. L. R. B. v. *Christian A. Lund (Northland Ski Mfg. Co.).* Awaiting action by Board on remand.
N. L. R. B. v. *Crowe Coal Co.*
Cupples Co. v. *N. L. R. B.*
Hamilton-Brown Shoe Company v. *N. L. R. B.* Awaiting action by Board on remand.
Kansas City Power & Light Co. v. *N. L. R. B.*
Montgomery Ward & Co., Inc. v. *N. L. R. B.* Awaiting action by Board on remand.
N. L. R. B. v. *R. C. Can Co.*

Ninth Circuit Court of Appeals

N. L. R. B. v. *Cowell Portland Cement Co.*
Douglas Aircraft Co., Inc. v. *N. L. R. B.*
N. L. R. B. v. *Los Angeles Brick & Clay Products Co.*
N. L. R. B. v. *Sterling Electric Motors, Inc.*
N. L. R. B. v. *Sunshine Mining Co.*

Tenth Circuit Court of Appeals

Continental Oil Co. v. *N. L. R. B.*

Court of Appeals for the District of Columbia

International Ass'n of Machinists (Serrick Corp.) v. *N. L. R. B.*

II. PROCEEDINGS ARISING OUT OF REPRESENTATION CASES

A. Suits to Compel Certification:
Amer. Fed. of Labor and Fed. Labor Union No. 21164 v. *N. L. R. B.* (D. C. D. C., docket No. 76810), bill of complaint for mandatory injunction requiring certification dismissed on stipulation, Aug 8, 1938.
Amer. Fed. of Labor and Fed. Labor Union No. 21164 v. *N. L. R. B.* (D. C. D. C., docket No. 434), civil action for mandatory injunction requiring certification; motion to quash granted, Nov. 3, 1938.
Amer. Fed. of Labor and Fed. Labor Union No. 21164 v. *Madden et al.* (D. C. D. C., docket No. 552), civil action for mandatory injunction requiring certification; dismissed April 21, 1939.

B. Suits to Review Certifications:
Amer. Fed. of Labor v. *N. L. R. B.*, 103 F. (2d) 933 (App. D. C.), petition for review of certification dismissed.[13]
Libbey-Owens-Ford Glass Co. v. *N. L. R. B.* (C. C. A. 6). Board motion for dismissal of company petition to review certification denied, May 10, 1939.

C. Suits to Stay or Review Directions of Elections:
Int. Brotherhood of Electrical Workers v. *N. L. R. B.*, 105 F. (2d) 59 (C. C. A. 6), direction of election set aside.[13]
Armour & Co., Employees' Mut. Ass'n v. *N. L. R. B.*, 105 F. (2d) 1016 (C. C. A. 7); stay of direction of election denied.
Metropolitan Engineering Co. v. *N. L. R. B.* (C. C. A. 2); stay of direction of election denied, Aug. 12, 1938.
Cupples Co. Mf'rs. v. *N. L. R. B.*, 103 F. (2d) 953 (C. C. A. 8), review of direction of election denied.

D. Suit to Compel Vacation of Board Order dismissing Petition for Investigation and certification of representatives under Sec. 9 of the Act:
Int. Molders Union v. *N. L. R. B.*, 26 F. Supp. 423 (E. D. Pa.), dismissed on jurisdictional grounds.

III. MISCELLANEOUS COURT PROCEEDINGS

A. Injunction proceedings:
Benjamin D. Ritholz v. *Madden et al.* (D. C. D. C.), dismissed, Oct. 10, 1938.

B. Cases in which Board suits, pursuant to Sec. 11 (2) of the Act, for the enforcement of subpoenas were granted:
N. L. R. B. v. *Benjamin D. Ritholz, et al.* (N. D. Ill., June 13, 1939).
N. L. R. B. v. *Leroy L. Schulz* (E. D. Wisc., April 11, 1939).

C. Cases in which Board motions to withdraw proceedings and vacate orders for further proceedings before the Board were granted:
N. L. R. B. v. *Cherry Cotton Mills*, decided Aug. 22, 1938 (C. C. A. 5).
Cincinnati Milling Machine Co. v. *N. L. R. B.*, 102 F. (2d) 979 (C. C. A. 6).
Electric Vacuum Cleaner Co., Inc., et al. v. *N. L. R. B.*, decided May 9, 1939 (C. C. A. 6).
Ford Motor Co. v. *N. L. R. B.*, 305 U. S. 364.
Lane Cotton Mills v. *N. L. R. B.*, consent order, July 26, 1938 (C. C. A. 5).
North Whittier Heights Citrus Ass'n v. *N. L. R. B.*, 97 F. (2d) 1010 (C. C. A. 9), certiorari denied, 305 U. S. 660.

D. Cases in which Interrogatories or Depositions were refused:
Cupples Co. Mf'rs v. *N. L. R. B.*, 103 F. (2d) 953 (C. C. A. 8).
Inland Steel Co. v. *N. L. R. B.*, 105 F. (2d) 246 (C. C. A. 7).
N. L. R. B. v. *Louicville Refining Co.*, May 3, 1939 (C. C. A. 6).[14]

[13] Certiorari granted, October 9, 1939
[14] Certiorari denied, October 9, 1939.

E. Cases in which adjudication of contempt was made for failure to comply with Court decree enforcing Board order:

N. L. R. B. v. *Hopwood Retinning Co., Inc., and Monarch Retinning Co., Inc.*, 104 F. (2d) 302 (C. C. A. 2).

F. Bankruptcy Proceedings.

In re Hamilton-Brown Shoe Co., Debtor (E. D. Mo., docket No. 9734).[14a]

G. Suits against Board Agents:

Peo. v. *Howard*, Justice Court, Holtsville, Calif., March 30, 1939.

H. Cases in which suit to review order of Board dismissing complaint, insofar as it alleged discharge of employee, was dismissed:

Hicks v. *N. L. R. B. et al.*, May 31, 1939 (C. C. A. 2).[15]

I. Cases in which libel suits were brought against the Board:

Clover Fork Coal Co. v. *N. L. R. B.* (C. C. A. 6), pending.[16]

J. Cases where petition to review dismissed because Board order set aside prior to filing of transcript.

Harris et al. v. *N. L. R. B.*, 100 F. (2d) 197 (C. C. A. 3), certiorari denied, 306 U. S. 645, rehearing denied, 306 U. S. 669.

[14a] Proof of claims filed October 6, 1939.

[15] Certiorari denied, October 9, 1939. See also *Hicks* v. *N. L. R. B. et al.*, 100 F. (2d) 804 (C. C. A. 4).

[16] Judgment below dismissing proceedings, affirmed December 5, 1939.

X. THE TRIAL EXAMINERS' DIVISION

The Trial Examiners' Division, under the direct supervision of the Chief Trial Examiner, conducts the hearings for the Board. The rules in effect during the period of this report provided that the Board, the Chief Trial Examiner, or regional director, could appoint trial examiners. In practice, however, only the Chief Trial Examiner has designated the trial examiners, although in several instances he has done so after consultation with the Board. In no instances have trial examiners been appointed by regional directors.[1] Members of the Trial Examiners' Division are assigned to preside over hearings on formal complaints alleging the commission of unfair labor practices and on petitions for certification of representatives. After the evidence has been presented in the former type of case, they prepare findings of fact and recommendations that are submitted to the parties; in cases involving certification of representatives, they prepare informal reports for submission to the Board.

The trial examiner has not fully discharged his duties if he contents himself with merely permitting the parties to adduce such evidence as they believe to be relevant. The rules provide that "It shall be the duty of the trial examiner to inquire fully into the facts." * * * and further that "the trial examiner shall have power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence." Experience has demonstrated that by proper exercise of this power, the trial examiner may elicit facts necessary to enable the Board to determine the issues on the basis of a complete and full record, thus avoiding the unnecessary delays and expense to the parties of a further hearing. With a few exceptions, all of the trial examiners are attorneys, most of them having brought with them to the Board a wide experience based on years of practice before the various courts throughout the country. The knowledge gained in the course of conducting many hearings tends rapidly to develop an informed and balanced judgment in the complex field of labor relations and enables the trial examiner to guide the parties to an adequate and orderly presentation of the material facts.

During the hearing the examiner, having the same power under the Act as though the Board or a member thereof were presiding, makes rulings on objections and motions, and otherwise is responsible for the conduct of the hearing. These rulings by the trial examiner are reviewed by the Board when it considers the entire case.[2] The trial examiners may, and frequently do, consult with the Chief Trial Examiner upon matters arising during the course of the hearing.

[1] The Rules and Regulations—Series 2, effective July 14, 1939, provide that only the Board and Chief Trial Examiner may designate trial examiners.

[2] Under the rules effective July 14, 1939, the Board may entertain interlocutory appeals during the course of the hearing.

These matters usually have to do with motions for adjournment, but frequently problems unfamiliar to the particular trial examiner, with which the Chief Trial Examiner, by reason of his constant familiarity with all the Board's pending cases and procedure, generally has had experience, are discussed with the Chief Trial Examiner. This may be either by telephone, telegraph, or letter. In short, the trial examiners are perfectly free to, and do, consult with the Chief Trial Examiner upon any matter arising during the course of the hearing, the ultimate responsibility for the proper conduct of which rests with the Chief Trial Examiner.

During a large part of the period of this report, as a part of the in-service training, the Trial Examiners' Division has held a weekly meeting attended by all members of the trial examiners' staff who were in Washington. Frequently, other members of the Board's staff are invited to attend. At these meetings matters of interest to the trial examiners are discussed and views are freely exchanged on problems of evidence, recent decisions of the Board, problems of conduct during the hearings, and so forth. It is felt that these meetings have been of great assistance in making uniform practice among the trial examiners. Many of the ideas contained in written instructions to the staff were developed at these weekly conferences.

Upon the conclusion of a hearing involving the alleged commission of an unfair labor practice, and when the transcript of the evidence and the exhibits have been received, the trial examiner prepares an intermediate report. This report contains findings of fact, conclusions, and recommendations. Trial examiners now uniformly prepare these draft intermediate reports in Washington.

Beginning in February 1939, in a more or less experimental way, reviews of several of the records and intermediate reports were made by other trial examiners. This was done (1) to ascertain whether or not the trial examiner who heard the case would be benefitted by a critical analysis of his report by someone as well qualified as himself, and (2) to determine whether reversible error might or might not have been committed during the hearing of the case, in which event the Chief Trial Examiner could direct the trial examiner to reopen the hearing for further evidence, or take other measures to correct the possible error. During the period ending June 30, 1939, a number of such cases have been so reviewed.[3]

[3] In August 1939, the Division formally began reviewing all intermediate reports. A number of trial examiners were assigned temporarily to Washington for the purpose of doing this work. These reviewing trial examiners prepare written reports which are in the form of a critical analysis of the draft intermediate report and the record. The trial examiner receives a copy of the critical analysis and then both trial examiners discuss the draft report and the analysis. After such conference, the trial examiner redrafts his intermediate report if he is of the opinion that the suggestions or criticisms made by the reviewing trial examiner have merit. It is to be stressed that in all instances the trial examiner who heard the case has the complete and final say as to the form and content of the intermediate report, but experience has demonstrated that the criticisms have substantially benefitted the trial examiners. Although an insufficient number of intermediate reports have been issued under this present system to draw any definite conclusions therefrom, it is to be noted that the number of compliances with the intermediate reports so prepared is substantially higher than heretofore. Where the trial examiner and reviewing trial examiner have a definite difference of opinion as to the case, they discuss the matter with the Chief Trial Examiner or Assistant Chief Trial Examiner, who gives the two trial examiners the benefit of his opinion. The final report that goes out of the department, however, is the product of the trial examiner who heard the case.

During the period of this report, an in-service training period has been inaugurated for new trial examiners involving an intensive study program before the new examiner is actually designated to hear cases. The training process consists of having the trial examiner read literature on the general subject of labor relations, with specific reference to the act, rules, and regulations of the Board, Board orders, and court decisions resulting from appeals from Board orders. The new trial examiner is then sent out with an experienced trial examiner to observe the latter's conduct of the hearing. After attending several such hearings, the process is reversed, with an older trial examiner in attendance to observe and advise the new man. At the end of from 3 to 6 months of this type of training, the new trial examiner is ready to take over actively the position of a trial examiner.

XI. DIVISION OF ECONOMIC RESEARCH

The function of the Division of Economic Research continues to be that of a service agency supplying economic data necessary to the administration of the National Labor Relations Act.[1] The significance of economic materials in labor cases is rapidly becoming a matter of general knowledge and comment, as evidenced by a recent article in the University of Chicago Law Review, which gives a detailed discussion of the use of economic materials in a number of cases involving the National Labor Relations Board and summarizes the functions of the Division of Economic Research.[2]

A. CURRENT CASE WORK

Labor relations problems.—An important part of the Division's work during the past year was the preparation of material to aid in determining whether or not particular acts on the part of employers constitute unfair labor practices within the meaning of the statute, a task that is especially difficult where employer opposition to labor organization and collective bargaining assumes subtle and devious forms. The complex problems and data which are a part of modern industrial relations make the use of economic materials particularly important. Elaborate statistical analyses of employment and pay-roll records are often necessary in addition to the nonstatistical studies of employment practice and policy.

Detailed analyses of employment and pay-roll records were frequent in cases involving charges of discriminatory employment practice. Where employers alleged that given employees were discharged or laid off in accordance with an established seniority or merit rating plan, it was necessary to establish the merits of the plan, i. e., to ascertain whether it was inherently fair or devised for the purpose of discrimination, and then to determine whether or not the respondent's treatment of complainants was consistent with its stated policy. The results of such study, presented in tabular or other form, were used as a basis for further action by the Board. Where the Division's analysis substantiated the respondent's contention, the complaint as to 8 (3) was generally dismissed. In other instances, however, the material prepared by the Division was introduced into the record, used as a basis for drafting a complaint, or as a basis for oral examination of witnesses (e. g., *Interlake Iron Corporation*[3] and *Owens-Illinois Glass Company*).[4]

Another type of analysis was required in cases in which an employer attributed mass lay-offs to business conditions, when they were questioned as part of a campaign to discourage union mem-

[1] The current report omits discussion of the methods and sources of information used by the Division; these matters were treated in detail in the Third Annual Report, 1938.

[2] David Ziskind, "The Use of Economic Data in Labor Cases," The *University of Chicago Law Review*, vol. 6, No. 4, p. 667, June 1939. See similar statement of James E. Pate (College of William and Mary) in the *Southern Economic Journal*, July 1939, p. 57.

[3] Case No. 13–C–895.

[4] Case No. C–630.

bership. In such cases production records and other business indices were used, together with descriptive materials, as a test of the employer's statement. In the *Kansas City Ford Motor*[5] *case* production and sales data were used by the regional attorney to contradict respondent's contention that decreased production in the Kansas City plant was based on receding sales in that area. A similar type of analysis was made in the *Reliance Manufacturing Company*[6] *case*, and the results of the analysis were introduced into the record as a series of exhibits. Another type of case has required detailed comparison of economic conditions in two communities, in order to determine whether the removal of a plant from one community to another effected real economies or whether it was part of an effort to destroy a labor organization.

A substantial part of the Division's work during the past year centered around 8 (5) cases where it is necessary to clarify the meaning of collective bargaining in order that the purposes of the Act may be effectuated. Frequently an employer's conduct with reference to section 8 (5) can be evaluated only by a consideration of the background of labor relations in his establishment, the history of collective bargaining within his industry, and the general practices that have developed wherever collective bargaining has existed for many years.

One example is the *Marshall Field*[7] *case*, settled by stipulation after a hearing at which the Chief Economist testified on the role of outside parties in the collective bargaining conference. (Respondent had insisted upon their presence as a condition for entering into negotiations with the union.) The testimony of the Chief Economist, substantiated by materials from authoritative sources, described the recent history of labor relations in the southern textile industry, the nature of the negotiatory process in collective bargaining, and the use of "third parties" as a technique developed in recent years for combating labor organizations.

In the *Goodyear Rubber*[8] *case*, data prepared by a staff economist provided the trial attorneys with background material on employer-employee relations in the rubber industry. In addition, a special study was made of the length of time required to negotiate the terms of a written trade agreement in the industry, to ascertain an industry pattern. In the *Globe Cotton Mills*[9] *case* the Division prepared material (for incorporation in the Board's brief) relating to respondent's contention that collective bargaining within the meaning of the act does not include a written agreement embodying terms agreed upon in negotiations with the union. In connection with other section 8 (5) cases, including *Heinz*[10] and *Good Coal*,[11] economic materials were prepared for the attorneys writing briefs or delivering oral court arguments.

A number of other unfair labor practice questions have been the subject of Division study, e. g., independent unions, back-to-work movements, and citizen committees (as devices to frustrate self-organization of workers); employer expressions of opinion (as an inter-

[5] Case No. 17–C–198.
[6] Case No. 18–C–411, C–475 and 13–C–659.
[7] 12 N. L. R. B. 345.
[8] Case No. 8–C–378.
[9] 6 N. L. R. B. 461.
[10] N. L. R. B. 963.
[11] 12 N. L. R. B. 136.

ference with self-organization); and the practice of barring union representatives from respondent's premises in connection with union business (as an infringement upon the employee's right to organize and bargain collectively).

Jurisdictional problems.—During the period covered by this report several industries and services were involved in Board proceedings for the first time: insurance, retail chain distribution, credit clearance, agricultural processing, and the dairy industry. In these cases the Division made extensive studies of the organization and operations of both the individual respondent and the industry itself, covering corporate structure and interrelationships, sources of raw materials, markets for finished products, methods of marketing, the time element in the handling and delivery of goods, and other characteristics bearing upon the effect of internal labor unrest and strife on the flow of goods in interstate commerce.

Following the outlines of the interstate commerce material prepared for the *Consolidated Edison*[12] *case* (in which the Board was upheld by Supreme Court decision, December 1938), the Division continued to provide materials in subsequent public utility cases, sometimes involving mere routine functions and other times substantial research. An outline prepared by the Division to cover the interstate aspects of the insurance business was used by the Board in reaching its decision to assume jurisdiction in that field. Similar background material was prepared prior to the issuance of a complaint in the *Great Western Mushroom*[13] *case.*

Economic data were also furnished when it was difficult to obtain materials in the field relating to the organization and operations of a particular respondent. This material followed the general outlines of that furnished in the *Jones and Laughlin*[14] *case*, one of the test cases on the constitutionality of the act. Special material was prepared for cases in which there was a one-way flow of goods or in which respondent had no legal title to the goods which he processed and then shipped. In the *A. S. Beck*[15] *case* a questionnaire prepared by the Division was utilized in securing information from respondent; the questionnaire was also used in examining company witnesses. Similarly, in the *New York Times*[16] *case* information was secured through questionnaires, and it was later used as a basis for stipulation.

Frequently the Division was called upon to help clarify the meaning of a statutory exemption, e. g., whether employees engaged in date packing or other types of agricultural processing come under the provision exempting agricultural workers, whether employees of inter-plant railroads of manufacturing companies are subject to the act. Its services were also required in connection with broader questions of jurisdiction. An illustration is the *North Whittier-Heights Citrus Association*[17] *case*, in which respondent contended that the Board could not order the reinstatement of certain employees because the employment relationship had terminated when they were laid off. For the brief in this case, the Division pre-

[12] 4 N. L. R. B. 71, 305 U. S. 197 (1938).
[13] Case No. 22–C–205, 22–C–211.
[14] 1 N. L. R. B. 503, 301 U. S. 1 (1937).
[15] Case No. 2–C–2009.
[16] Case No. C–775.
[17] 10 N. L. R. B. 1269.

pared material indicating that the employment relationship had not been terminated with the lay-offs, since it was customary practice in the industry and in related industries to consider as employees persons laid off temporarily because of a seasonal decline in production.

Additional questions of similar character for which the Division supplied materials included (1) whether or not an insurance agent is an employee within the meaning of the Act, (2) whether a wage-hour strike in violation of a no-strike provision of an agreement terminates an employment relationship, and (3) whether a concerted refusal to work on a holiday constitutes a labor dispute. Material was also provided to clarify the term, "substantially equivalent employment."

Additional problems connected with current case work.—In addition to its unfair labor practice work, the Division provided materials for representation cases where the question of appropriate bargaining unit arose. These materials included the history of collective bargaining in a given industry and within a respondent's plant, the nature of the occupations involved in the case, the structure of the respondent's organization, the constitutional jurisdiction of the unions, and marketing and competitive factors. More specifically the questions were of the following type: Shall a foreman be considered a member of a union; does the collective bargaining history and the economic character of an industry warrant the certification of a multiple employer unit; is a proposed unit appropriate in the light of the traditional bargaining practices of the union or unions in question.

A variety of miscellaneous technical questions were presented to the Division, including simple matters of fact and complex issues requiring substantial research and expert advisory opinions. Frequent requests were made for the identification of a union or employer association, for occupational descriptions, and for definitions of labor terminology. Other inquiries were more difficult to answer, e. g., is a given sale *bona fide* or was it made in an effort to evade enforcement of a Board order? The Division often prepared material to clarify ambiguous references or terms in a record, e. g., the meaning of "spot inventories."

B. WORK EXTENDING BEYOND THE SCOPE OF PARTICULAR CASES AND OTHER WORK OF A GENERAL CHARACTER

Congressional hearings.—In connection with congressional hearings during the past year the Division prepared a great deal of material for the use of Board officials. Statistical studies were made to show the effect of the Act (1) upon strikes and (2) upon the acceptance of collective bargaining procedures (the latter reflected in an extension of written agreements.) Other studies included a description of independent unions involved in Board cases, an estimate of the costs of administering the act as compared with savings resulting from the Board's operations, an analysis of the distribution of regional offices with relation to the concentration of population and industry in surrounding areas. In addition, material of a nonstatistical nature was prepared: a comprehensive study differentiating agri-

cultural labor from employees engaged in agricultural processing and justifying the inclusion of the latter group within the scope of the act and brief studies relating to the question of appropriate bargaining unit, particularly the difficulty of defining the term "craft."

Publications and other general material.—Materials prepared originally for a specific case or group of cases were in a number of instances enlarged and edited for general use. Data which had been prepared to justify the Board's assumption of jurisdiction in a wire service case and in a number of newspaper cases were edited and extended for general use in the form of Bulletin No. 3, "Collective Bargaining in the Newspaper Industry." Similarly, material prepared as exhibits and as a basis for testimony in the *Inland Steel*[18] *case* was amplified for general use in cases involving the relationship of the written agreement to the collective bargaining process. The outline and bibliography entitled "Effective Collective Bargaining," and the research memoranda entitled "Union-Employer Responsibility" and "The Role of Supervisory Employees in Spreading Employer Views" were outgrowths of work done in connection with specific cases, released in mimeographed form because of their general application.

Another type of general material was that prepared by the Division in anticipation of cases involving a common issue, e. g., material prepared on the status of the insurance agent within the meaning of the Act and background and interpretative material on independent unions for use in all Board cases in which there were allegations of employer domination of such organizations.

Direct requests for publications of the Division were continually received from libraries, employers, unions, professors, students, and others. These requests were filled to the extent that the supply would permit. Among the publications sent out in answer to requests, the following were released during the last fiscal year:

Bulletins

No. 3. Collective Bargaining in the Newspaper Industry, October 1938.

Research Memoranda

No. 3. Role of Supervisory Employees in Spreading Employer Views. Z–358. November 8, 1938.
No. 4. Union-Employer Responsibility. ED–2. Lyle Cooper, January 16, 1939.
No. 6. Brief in Support of the Allegations in the Complaint. Z–316. In the Matter of The Western Union Telegraph Company, a corporation *and* American Communications Association. David J. Saposs, Katherine P. Ellickson, and Will Maslow.
No. 7. Savings Resulting from the Effective Operation of the National Labor Relations Act in 1938, Compared with Costs of Its Operation. Z–531. David J. Saposs and Morris Welsz, June 15, 1939.
No. 8. Structure of A. F. L. Unions. David J. Saposs and Sol Davison. (Printed in Labor Relations Reporter, May 15, 1939.)
No. 9. Rapid Increase in Contracts. David J. Saposs and Sara Gamm. (Printed in Labor Relations Reporter, June 12, 1939.)

Research Outline

No. 7. Effective Collective Bargaining: Outline and Bibliography. Z-395. David J. Saposs and Lyle Cooper, December 14, 1938.

[18] 9 N. L. R. B. 783.

As an incidental function, the Division provided informational service to individual Congressmen, Federal and State agencies, and others having a legitimate interest in the work of the Board. Occasionally materials in the Division files or in process of compilation were made available, by way of reciprocity, to other agencies. Interstate commerce and other jurisdictional materials were requested by a number of Federal agencies. On the basis of studies outlining the accomplishments of the Board, the Division was able to answer an inquiry of the Pennsylvania Labor Relations Board regarding a study of the effects of the State act upon industrial relations. Similarly, the Division answered an inquiry of the New York State Board regarding the extent to which collective bargaining precludes individual bargaining. File materials (independent unions, labor relations in the newspaper industry, and the content of written agreements) were in a few cases made available to students. The Division also cooperated with a number of research foundations, supplying them with materials and checking draft manuscript.

XII. INFORMATION DIVISION

A. FUNCTIONS OF THE INFORMATION DIVISION

The Division serves as a channel of all Board information. It assumes responsibility for all material distributed and for all responses to inquiries from the general public and the press, thereby relieving Board officers and attorneys from the necessity of being interrupted by constant requests for information on cases, decisions, and general activities.

The external function of the Division is to aid in providing a clearer public understanding of the policy of the act and the operations of the Board. During the past fiscal year the Division prepared 815 releases, a total of 2,400 pages and about 1,440,000 words.

Preponderantly these releases were digests of Board decisions. Rulings on unfair labor practice disputes and representation issues by the Board are matters of immediate concern to the parties and to the public generally. The Information Division endeavors to condense the salient legal and factual points in a Board decision, often running to many thousands of words, into a release of a few hundred words. This is made public upon Board signature to the decision.

B. BOARD POLICY IN ITS PUBLIC RELATIONS

As has been pointed out in previous annual reports, the Board as a quasi-judicial body is unwilling to enter public debate regarding its application of the act to particular cases. Its decisions are reviewable by the courts. It would be improper for the Board to elaborate or explain its conclusions beyond what appears in the decision itself. Those searching for precedents or applicability to supposedly similar situations must of necessity rely on their own reading of the decision and ultimately upon the interpretation of the reviewing court.

The Board is conscious that this self-imposed rule of silence precludes easy and familiar discussion of the possible salutary effect of its decisions upon the long-range objectives of industrial peace and stability. Whatever paths to public understanding such discussions might have cleared, the Board has felt restrained under its procedure to avoid them, except in response to congressional inquiry.

In its digests of decisions the information division has followed the same rule, insofar as it attempts to reduce the longer decision to smaller compass without distortion of meaning and without editorial adornment.

C. THE BOARD'S ACCOUNTING OF ITS ACTIVITIES

In its second annual report the Board said:

> The state of public knowledge of a new law has a direct relation to its successful administration.

The act is still comparatively new and the Board reaffirms its obligation to increase the public knowledge of its operations, to the end that the purposes of the act may be the more quickly translated into practice. While it is seen that its decisions themselves cannot be subject to continued exposition after issuance, the Board feels under no similar restraints from commenting on the impact of the act upon the industrial relationship. Through monthly summaries of its activities, through statements and speeches by Board officers, it has endeavored during the past fiscal year to give current accountings of its stewardship.

In one of its first releases of the fiscal year the Board endeavored statistically to compare the purposes of the act, as stated by President Roosevelt upon the signing of it, with actual operations under it up to that date. It was recalled that the President had announced three specific aims of the act, the first of which was this:

> By assuring the employees the right of collective bargaining it fosters the development of the employment contract on a sound and equitable basis.

In substantiation of progress in assuring employees the right of collective bargaining the Board pointed to the settlement informally of 55 percent of its 11,180 closed cases, the withdrawal and dismissal of another 40 percent (generally for lack of merit), and the resort to formal procedure, looking forward to decisions, in only 5 percent of all closed cases. That employment contracts had been fostered was apparent in the contemporaneous statement of Senator James E. Murray, Montana, that new agreements had been signed recently between employers and unions representing 1,700,000 workers.

The President's second aim was:

> By providing an orderly procedure for determining who is entitled to represent the employees it aims to remove one of the chief causes of wasteful economic strife.

It was shown that 450,842 workers had cast valid votes in 1,280 secret ballot elections conducted by the Board and that concurrently there was a decrease in the number of strikes called for organization purposes, particularly in industries subject to Board jurisdiction.

The President's third stated aim was:

> By preventing practices which tend to destroy the independence of labor, it seeks, for every worker within its jurisdiction, that freedom of choice and action which is justly his.

Of more than 10,000 labor disputes, in which employees had alleged that their employers were using punitive means to discourage their interest in forming their own organizations, there were less than 3 percent which resulted in actual cease and desist orders against the employers. The remaining 97 percent of the cases were closed through settlements, withdrawals, or dismissals or transfer to other agencies.

At the close of the fiscal year these proportions in the handling of cases had not materially altered.

From Board statements and speeches issued during the fiscal year there emerges a firm belief in the efficacy of the act in promoting peace in the industrial relationship upon a basis of rights respected by both sides. The Board has constantly studied the trend of strikes and has periodically reported its finding (treated statistically else-

where in this report) that the causes of unrest susceptible to amelioration under the act have notably decreased. At the same time it has repeatedly pointed out that strikes for reasons not involving a stated unfair labor practice are beyond its jurisdiction and should be considered apart in reckoning the act's effectiveness. The act has not been advanced by the Board as a cure-all for industrial unrest, but rather as a protection to self-organization and to the collective-bargaining procedure, in accordance with the preamble of the act which makes the major premise that employers and employees will come to more peaceful adjustments under a balance of bargaining power.

The new tendency toward written agreements and their periodic renewals was commented upon with satisfaction as a true measure of increasing stability in the practical field of adjusting the differences which arise whenever men hire others for wages. Speaking on December 29, 1938, of the many thousands of new labor agreements concluded during this period between employers and unions, Chairman Madden said:

> Each of these agreements represents peace, stability, and mutual respect, and most of them represent improved conditions for the workers.

As a byproduct of collective bargaining, Chairman Madden in the same statement noted the education and experience in the principles and practice of self-government which millions of Americans were newly receiving through union meetings and workers' education programs. He said:

> They there discuss their problems, commend or criticize their leaders, learn what it is practical to ask for, and why compromise is often necessary. Their education in self-government is carried on under the most realistic conditions, since they are participating in the solution of their own most vital problems.

In many communities, particularly isolated ones long under employer domination, the Board's protection of the workers' right to self-organization served to restore civil liberties which local authorities had thought necessary to abridge. This was frequently called to public attention by the Board, notably in Chairman Madden's August 29, 1938, report that the upholding by a circuit court of appeals of a Board order in a test case against a Harlan County coal operator had contributed largely to a new order of justice in that community. By October the Board was able to issue a report showing that fewer strikes and greater stabilization of the soft coal mining industry had resulted from extension of the employers' basic labor agreement to cover nonunion areas.

During August 1938 corroboration of the need for governmental intervention in organization disputes was given by the report of the President's commission on British industrial relations. A renewed Board confidence in its activities was injected by this report and by public approval of it. It was considered noteworthy that the Manchester Guardian should say editorially:

> One thing can be said with confidence. If the British trade-unions had to meet the same forms of opposition to their organization and recognition as are commonly met with in the United States they would seek Government intervention, as would those employers who wished to see decent order established in their industries.

Throughout the fiscal year the Board was under a continuing challenge that its activities were not effectuating the purpose of the act to promote industrial peace. Its newspaper relations in this respect, the Board feels, have improved. Although no accurate check is practicable, it is obvious that more space than previously was given during the fiscal year to the reporting of Board decisions and to their review by circuit courts of appeals. This more generous use of space is, in direct proportion, an aid to public understanding of the issues.

The editorial interpretation of these issues, both reflecting and creating public opinion, has by the same token become more analytical of basic labor problems in degree that editors have had more access to facts in their own news columns. In the previous year editors underscored violence in labor disputes and, since editors must make their comments on spot news, their conclusions on the merits of the current disputes were necessarily based on limited evidence and on emotional statements by the parties involved. However, during the following year (that covered by this report) strike violence was less in the news and, instead, newspapers went to the original causes of the 1937–38 strike wave as presented by witnesses at Board hearings and in the Board decisions themselves. A more objective editorial discussion of dispute cases was the salutary result.

Since the period of acceptance of any new law is long, and should be shortened if possible, it may be permissible to point out an omission which newspapers and radio commentators are inclined to make.

This is the failure to make clear that the act should not be held responsible for all industrial unrest since its functions are limited to the protection of self-organization and the procedures of collective bargaining. The act goes no further than the guidance of these first steps in the employer-employee relationship, on the supposition that newly organized labor and traditionally organized industry will make their own adjustments according to their separate bargaining skills and their desire to live amicably together. The act of living together under stable agreements, and not the steps which led up to it, constitutes the bone and sinew of the employer-employee relationship. The act contributes nothing more than a space and an atmosphere in which it can grow to useful stature. To distinguish between the one field where the act functions and the other where democratic procedures are with difficulty seeking new adjustments, is a clarification which the press is uniquely equipped to make.

D. STAGES AT WHICH INFORMATION IS AVAILABLE

The following describes the progressive stages of Board unfair labor practice and representation cases, and states whether information is available at each stage or why it is withheld:

The fact that charges or petitions have been filed is available upon inquiry, but details of allegations are withheld because charges merely represent unsubstantiated facts and the Board holds it unfair to employers to make them public prior to its investigation.

Formal complaints are issued when investigation reveals a basis for unfair labor practice allegations. Normally, com-

plaints are made public in the regions where they originate. When the Board issues a complaint in its own name the text is released at Washington.

Hearings upon complaints or representation issues are open to the public.

The intermediate reports of trial examiners are made public in complaint cases. They are usually made public both in the field where issued and at Washington. In representation cases, informal reports are submitted by the trial examiners to the Board, and are not made public.

Cease and desist orders and decisions or certifications in representation cases are made public in Washington when signed by the Board. Digests are simultaneously issued by the information division. The full text of each decision is available for reference immediately and is printed for general distribution within a short period.

Summaries of the Board's record in the courts are periodically issued. The texts of circuit courts of appeals decisions in Board cases are mimeographed as soon as possible.

E. ACTIVITIES OF INFORMATION DIVISION

The Information Division consists of a director, an assistant director, a senior information assistant, a secretary-clerk, and a stenographer-clerk. Its duty is to supply or make available information on the status of Board cases, the contents of examiners' reports, the text of Board decisions, and the course of litigation cases. The Division prepares for mimeograph release the following type of information:

Digests of Board decisions and intermediate reports.
Digests of Board orders for election.
Digests of complaints when issued by the Board.

During the fiscal year, in addition to preparing the above-mentioned 815 items, the Division released 19 speeches by Board members and officers.

A mailing list is maintained for those who request regular receipt of material issued, including the monthly summary of Board activities. No names are placed on the list except by such specific request. Under these circumstances the list, on June 30, 1939, was as follows:

Receiving releases (including newspapers, labor organizations, trade journals, students, etc.)	2,436
Receiving court decisions	320
Receiving monthly summaries	524
Regional offices	22
Total	3,302

All decisions are printed at the Government Printing Office and may be obtained only through the Superintendent of Documents. A list of all Board publications available at the Government Printing Office is furnished upon request to the Board.

XIII. LIST OF CASES HEARD AND DECISIONS RENDERED

Following is a list of cases heard prior to the fiscal year 1938–39, in which action was taken during the fiscal year 1938–39;

Unfair labor practice cases

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Acme Air Appliance Co., Inc.	Mar. 10, 1938	Mar. 15, 1938	Jan. 25, 1939
Aeolian American Corporation	Jan. 10, 1938	Jan. 14, 1938	Sept. 8, 1938
Aero American Co.	Feb. 28, 1938	Mar. 5, 1938	Mar. 16, 1939[1]
A. H. Wirz, Inc.	Jan. 31, 1938	Feb. 4, 1938	Oct. 25, 1938
Alba Twine Mills, Inc.	Feb. 7, 1938	Feb. 8, 1938	(2)
American Chain & Cable Co.	Apr. 18, 1938	Apr. 21, 1938	(2)
American Hawaiian Steamship Co.	[3] Aug. 19, 1937	[3] Aug. 19, 1937	Jan. 21, 1939
American Numbering Machine Co.	Feb. 3, 1938	Feb. 14, 1938	Dec. 13, 1938
American Oil Co.	Apr. 14, 1938	Apr. 21, 1938	(4)
American Petroleum Co.	Sept. 13, 1937	Sept. 29, 1937	May 4, 1939
American Rolling Mill Co.	June 27, 1938	May 27, 1939	(4)
American West African Lines	[5] Apr. 21, 1938	[5] June 15, 1938	(4)
Andrew Jergens Co. of California	Jan. 11, 1938	Apr. 8, 1938	(4)
Anderson Mattress Co.	Apr. 21, 1938	Apr. 27, 1938	(4)
Appalachian Mills	Apr. 25, 1938	May 7, 1938	(4)
Arcadia Hosiery Co.	Apr. 11, 1938	Apr. 20, 1938	Apr. 27, 1939
Arcade-Sunshine Co., Inc.	Mar. 22, 1938	Mar. 30, 1938	Apr. 15, 1939
Armour and Co.	Feb. 7, 1938	Feb. 10, 1938	Nov. 29, 1938
Do.	do	do	Do.
Do.	do	do	Do.
Do.	Mar. 31, 1938	Apr. 11, 1938	Sept. 15, 1938
Asheville Hosiery Co.	Jan. 11, 1938	Jan. 22, 1938	Mar. 29, 1939
Athens Stove Works	May 5, 1938	May 6, 1938	(4)
Atlantic Greyhound Corporation	Mar. 10, 1938	Mar. 24, 1938	Feb. 25, 1939
Atlas Powder Co.	June 23, 1938	June 30, 1938	(4)
Auburn Foundry, Inc.	Apr. 7, 1938	Apr. 15, 1938	(4)
Automotive Maintenance Machinery Co.	Feb. 28, 1938	Mar. 9, 1938	June 21, 1939
Baer-Wilde Mfg. Co.	Dec. 9, 1937	Dec. 15, 1937	Oct. 19, 1938
Bank of America	June 27, 1938	July 6, 1938	(4)
B. Boehes-L. E. Rusch	Feb. 21, 1938	Feb. 24, 1938	(5)
Bennett-Hubbard Candy Co.	Feb. 17, 1938	Feb. 23, 1938	Mar. 13, 1939
Bercut-Richards Packing Co. et al and California Processors & Growers, Inc.	Apr. 11, 1938	Sept. 8, 1938	(4)
Berkey & Gay Furniture Co.	Jan. 17, 1938	Feb. 11, 1938	Feb. 15, 1939
Bethlehem Shipbuilding Corporation	Mar. 21, 1938	June 3, 1938	Feb. 10, 1939
Bethlehem Shipbuilding Co.	do	June 23, 1938	Do.
B. H. Body Co. et al.	Apr. 11, 1938	Sept. 8, 1938	(4)
Blanton Co.	June 16, 1938	June 21, 1938	(4)
Block-Friedman Co.	Sept. 30, 1937	Nov. 3, 1937	(4)
Boldemann Chocolate Co.	June 20, 1938	June 22, 1938	(4)
Borden Mills, Inc.	Dec. 13, 1937	Jan. 14, 1938	(4)
Boyertoun Burial Casket Co.	June 26, 1936	June 26, 1936	(7)
Boynton & Co.	Feb. 8, 1938	Feb. 12, 1938	[1] Apr. 12, 1939
Brashear Truck Co.	Jan. 17, 1938	Jan. 20, 1938	June 10, 1939
Brazil Mfg. Co.	Apr. 4, 1938	Apr. 6, 1938	Dec. 13, 1938
Breeze Corporation	Mar. 17, 1938	Mar. 23, 1938	Jan. 16, 1939
Brown Paper Mill Co., Inc.	Feb. 10, 1938	Feb. 25, 1938	Apr. 4, 1939
Do.	do	do	Do.
Burgess Battery Co.	Mar. 3, 1938	Mar. 9, 1938	(4)
Burlington Dyeing & Finishing Co.	Mar. 17, 1938	Mar. 19, 1938	Dec. 1, 1938
Burson Knitting Co.	Apr. 21, 1938	Apr. 23, 1938	(4)
Bussman Mfg. Co.	May 6, 1938	May 13, 1938	(5)
Byron-Jackson Co.	Oct. 21, 1937	Nov. 23, 1937	Mar. 15, 1939
Calco Chemical Co. (American Cyanamid Co.)	Sept. 8, 1937	Sept. 30, 1937	(5)
California Conserving Co., Inc., et al.	Apr. 11, 1938	Sept. 8, 1938	(4)
California Package Corporation	do	do	(4)
California Package Corporation et al.	do	do	(4)
California Sanitary Canning Co.	Feb. 7, 1938	Mar. 8, 1938	(5)
California Walnut Growers Association	Mar. 3, 1938	May 19, 1938	(4)
Calumet Steel Co.	May 12, 1938	May 13, 1938	(4)
Capitol Bedding Co.	Apr. 1, 1938	Apr. 4, 1938	(4)
Carolina Marble & Granite Works	Dec. 15, 1937	Dec. 16, 1937	Feb. 14, 1939

See footnotes at end of table, p. 168.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Centre Brass & Enterprise Novelty, Inc	Jan. 7, 1938	Jan. 13, 1938	Jan. 9, 1939
C. G. Conn, Ltd	Mar. 19, 1936	Mar. 30, 1936	Dec. 13, 1938
C. G. Lashley, L. & A. Bus Lines	May 2, 1938	May 4, 1938	[4]
Chesapeake Shoe Co	Mar. 10, 1938	Mar. 15, 1938	May 12, 1939
Chicago Apparatus Co	Dec. 13, 1937	Dec. 16, 1937	May 17, 1939
Clark Equipment Co	Mar. 1, 1938	Mar. 16, 1938	May 31, 1939
Clark Shoe Co	Apr. 12, 1938	Apr. 14, 1938	[4]
Cleveland Cliffs Iron Co	Jan. 24, 1938	Feb. 7, 1938	[4]
Clovis-News-Journal	May 24, 1938	May 25, 1938	[4]
Clovis-News-Journal, R. C. Haile's et al	do	do	[4]
C. Nelson Manufacturing Co	June 9, 1938	June 15, 1938	[4]
Cohn Hall Marx & Subsidiaries	Sept. 13, 1937	Sept. 28, 1937	[5]
Colorado Milling & Elevator Co	Feb. 24, 1938	Feb. 26, 1938	Feb. 9, 1939
Commonwealth Telephone Co	Mar. 24, 1938	Mar. 26, 1938	June 21, 1939
Conner Lumber & Land Co	[9]	[9]	[9]
Do	June 9, 1938	July 29, 1938	[1] Dec. 28, 1938
Consolidated Cigar Corporation	June 23, 1938	June 24, 1938	[9]
Consolidated Dressed Beef Co	Nov. 4, 1937	Nov. 5, 1937	[5]
Consumers Power Co	May 12, 1938	July 28, 1938	Nov. 8, 1938
Continental Oil Co	June 13, 1938	June 21, 1938	[4]
Do	Mar. 3, 1938	Mar. 17, 1938	May 9, 1939
Corinth Hosiery Mills	Mar. 28, 1938	Apr. 2, 1938	[4]
Cowell Portland Cement Co	Aug. 30, 1937	Aug. 30, 1937	Sept. 6, 1938
Crane Creek Lumber Co	Oct. 25, 1937	Oct. 27, 1937	[1] June 6, 1939
Crawford Manufacturing Co	Nov. 29, 1937	Nov. 29, 1937	Sept. 24, 1938
Crescent Bed Co	Dec. 18, 1937	Dec. 18, 1937	Oct. 21, 1938
Crosset Lumber Co	July 26, 1937	Aug. 7, 1937	July 21, 1938
Crowe Coal Co	Nov. 29, 1937 [10]	Nov. 29, 1937 [10]	Nov. 23, 1938
Crystal Springs Finishing Co	Dec. 28, 1936	Dec. 28, 1936	May 27, 1939
Crystal Springs Finishing Co	do	do	Do.
Cullen-Thompson Motor Co., Inc	Jan. 25, 1938	Jan. 26, 1938	Jan. 17, 1939
Cullom & Ghertner Co	June 20, 1938	June 23, 1938	[4]
Cummins Diesel Engine	Mar. 17, 1938	Mar. 17, 1938	[1] Apr. 16, 1938
Cuppler Co. (Match Division)	Nov. 29, 1937	Dec. 14, 1937	Dec. 6, 1938
Dainty Maid Slippers	Nov. 1, 1937	Nov. 3, 1937	Sept. 26, 1938
Dallas Cartage Co	June 30, 1938	July 2, 1938	[4]
D. & B. Pump & Supply Co. (Ensco Derrick & Equipment Co.)	Mar. 21, 1938	Mar. 23, 1938	Feb. 9, 1939
David Strain Manufacturing Co., Inc	Dec. 2, 11937	Dec. 3, 1937	July 18, 1938
Davidow Sportswear	May 21, 1938	June 1, 1938	[6]
Decatur Newspaper, Inc	Apr. 18, 1938	Apr. 22, 1938	[4]
Denver Automobile Dealers Association, et al	Dec. 2, 1937	Jan. 25, 1938	Jan. 17, 1939
Do	do	do	Do.
Detroit Gasket & Manufacturing Co., a corporation	May 26, 1938	June 21, 1938	[4]
Domestic Supply Coal Co	Apr. 11, 1938	May 4, 1938	[11]
Douglas Aircraft, Inc	June 7, 1937	Aug. 20, 1937	[12] Dec. 7, 1938
Do	do	do	[12] Do.
Eagle and Phenix Mills	June 6, 1938	June 21, 1938	Feb. 16, 1939
Eagle Pencil Co	Oct. 1, 1937	Dec. 29, 1937	[7]
Eagle-Picher Lead Co	Dec. 6, 1937	Apr. 29, 1938	[4]
Eagle-Picher Mining & Smelting	do	do	[4]
Eastern States Petroleum Co., Inc	May 2, 1938	June 28, 1938	[4]
Easton Made Underwear Co., Inc	Jan. 31, 1938	Feb. 7, 1938	[3]
Eavenson & Levering Co	May 23, 1938	June 7, 1938	[1] July 26, 1938
E. J. Robinson-L. E. Rusch	Feb. 21, 1938	Feb. 24, 1938	[6]
Electric Vacuum Cleaner Co	June 10, 1937	June 18, 1937	July 7, 1938
Elkland Leather Co	Sept. 24, 1937	Oct. 27, 1937	July 23, 1938
Elmhurst Packers, Inc	Apr. 11, 1938	Sept. 8, 1938	[4]
El Paso Electric Co	Nov. 18, 1935 [13]	Nov. 26, 1935 [13]	June 12, 1939
Emerson Electric Manufacturing Co	May 23, 1938	May 27, 1938	[4]
Empire Distributing Electric Co	May 26, 1938	June 7, 1938	[4]
Empire Worsted Mill, Inc	Mar. 14, 1938	Mar. 21, 1938	[4]
Erskine Baking Co	Apr. 20, 1938	Apr. 22, 1938	May 20, 1939
Eugene Dietzgen & Co., Inc	Jan. 4, 1938	Jan. 5, 1938	[1] Aug. 11, 1938
Ex-Lax, Inc	Mar. 29, 1938	Apr. 28, 1938	[4]
Export Steamship Corporation	Jan. 11, 1938	Feb. 19, 1938	Apr. 19, 1939
Fanny Farmer Candy Shops, Inc	Jan. 6, 1938	Jan. 8, 1938	Dec. 7, 1938
Federal Mining & Smelting Co	June 6, 1938	June 14, 1938	[4]
Ferguson Bros. Manufacturing Co	Jan. 20, 1938	Jan. 29, 1938	Oct. 14, 1938
F. G. Wogt & Sons, Inc	Apr. 25, 1938	Apr. 28, 1938	[1] July 12, 1938
Filice & Perrelli Canning Co	Apr. 11, 1938	Sept. 8, 1938	[4]
F. M. Ball & Co., et al	do	do	[4]
Ford Motor Co	Jan. 11, 1938	Feb. 4, 1938	[4]
Do	June 20, 1938	July 9, 1938	[4]
Do	Dec. 16, 1937	Apr. 9, 1938	[4]
Do	July 6, 1937	July 30, 1937	[4]
Do	Feb. 14, 1938 [14]	[14]	[14]
Do	June 6, 1938	June 16, 1938	[4]
Do	Mar. 24, 1938	May 16, 1938	[4]

See footnotes at end of table, p. 168.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Fox-Coffey-Edge Millinery	Sept. 30, 1937	Oct. 13, 1937	(4)
Fred Rueping Leather Co	Mar. 31, 1938	Apr. 29, 1938	(4)
F. S. Elam Shoe Co	Apr. 26, 1938	Apr. 27, 1938	June 5, 1939
F. W. Kurtz & Co., Inc	June 6, 1938	June 8, 1938	(4)
F. W. Woolworth Co., Inc	Apr. 11, 1938	Apr. 26, 1938	(4)
Gamble Robinson Wholesale Fruit & Produce (Pacific Fruit & Produce Co.)	June 9, 1938	June 10, 1938	(7)
Garden State Lines, Inc	Mar. 14, 1938	Mar. 26, 1938	(4)
General Chemical Co	Oct. 14, 1937	Oct. 19, 1937	July 13, 1938
Gerling Furniture Manufacturing Co	June 2, 1938	June 8, 1938	[1] Nov. 25, 1938
Glidden Co	Apr. 16, 1938[2]	Apr. 16, 1938	May 3, 1939
Grace Line	Aug. 19, 1937	Aug. 19, 1937[3]	Jan. 21, 1939
Grapevine Coal Co	Sept. 13, 1937	Sept. 22, 1937	Feb. 23, 1939
Greenbaum Tanning Co	Feb. 19, 1938	Feb. 24, 1938	Feb. 15, 1939
Godchaux Sugars, Inc	Jan. 24, 1938	Feb. 5, 1938	Apr. 29, 1939
Good Coal Co	Dec. 3, 1937	Dec. 6, 1937	Apr. 8, 1939
Goshen Rubber & Manufacturing Co	Feb. 24, 1938	Feb. 26, 1938	Mar. 28, 1939
Gotham Shoe Manufacturing Co., Inc	Feb. 18, 1938	Feb. 23, 1938	Apr. 28, 1939
Hamilton-Brown Shoe Co	July 8, 1937	July 29, 1937	Nov. 23, 1938
Hanson-Whitney Machine Co	Jan. 4, 1938	Jan. 5, 1938	July 8, 1938
Harnischfeger Corp	Aug. 12, 1937	Sept. 2, 1937	Nov. 8, 1938
Harrisburg Children's Dress Co	May 9, 1938	May 12, 1938	(4)
Harry Schwartz Yarn Co	Oct. 7, 1937	Nov. 1, 1937	May 23, 1939
Hearst Consolidated Publications, Inc	Feb. 17, 1938	Feb. 18, 1938	Jan. 19, 1939
Hemp & Co	Dec. 9, 1937	Dec. 21, 1937	Oct. 24, 1938
Heyward Granite Co	May 9, 1938	May 11, 1938	(4)
Highland Park Manufacturing Co	Dec. 9, 1937	Dec. 11, 1937	May 26, 1939
Highland Shoe, Inc	Apr. 1, 1938	Apr. 4, 1938	(4)
Hilgartner Marble Co	Apr. 18, 1938	Apr. 19, 1938	(4)
H. J. Heinz Co	Nov. 15, 1937	Nov. 26, 1937	[15] Jan. 5, 1939
Hollywood Citizen News	Mar. 7, 1938	Mar. 28, 1938	Sept. 1, 1938
Holmes Silk Mills, Inc	May 25, 1939	May 31, 1939	(4)
Hope Webbing Co	Jan. 31, 1938	Feb. 17, 1938	(4)
Howry-Berg, Inc	Jan. 24, 1938	Jan. 24, 1938	Jan. 17, 1939
H. T. Heinz Corporation	Apr. 11, 1938	Sept. 8, 1938	(4)
H. T. Poindexter & Sons	Sept. 23, 1937	Sept. 29, 1937	(7)
Huck Leather Co	Jan. 13, 1938	Jan. 18, 1938	Feb. 17, 1939
Hunt Bros. Packing Co	Apr. 11, 1938	Sept. 8, 1938	(4)
H. Zirkin & Sons, Inc	Jan. 27, 1938	Jan. 27, 1938	(7)
Ideal Foundry & Machinery Co	Apr. 9, 1938	Apr. 9, 1938	(16)
Indiana Cash Drawer Co	May 26, 1938	May 26, 1938	[1] July 30, 1938
Inland Lime & Stone Co	Sept. 27, 1937	Oct. 5, 1937	Aug. 18, 1938
Inland Steel Co	June 28, 1937	Oct. 13, 1937	[17] Nov. 12, 1938
International Agricultural Corporation	May 26, 1938	June 1, 1938	(4)
Do	do	do	(5)
International Shoe Co	Mar. 7, 1938	May 7, 1938	May 8, 1939
Interstate Aircraft & Engine Corporation	Apr. 18, 1938	Apr. 25, 1938	(4)
Interstate Granite Corporation	Dec. 13, 1937	Dec. 15, 1937	Mar. 9, 1939
Iowa Packing Co. (Swift & Co.)	Feb. 25, 1938	Mar. 2, 1938	Mar. 8, 1939
Isthmian Steamship Co	Oct. 10, 1937	June 10, 1938	(4)
Jac. Feinberg Hosiery Mills	Jan. 17, 1938	Jan. 22, 1938	(4)
Jackson Daily News, Inc	Dec. 9, 1937	Dec. 10, 1937	Oct. 10, 1938
J. Chesler & Sons	May 16, 1938	May 18, 1938	June 2, 1939
Jefferson Elec. Co	Oct. 21, 1937	Oct. 26, 1937	July 14, 1938
Jefferson Lake Oil Co., Inc	Apr. 18, 1938	Apr. 26, 1938	(4)
J. Klotz & Co	Dec. 10, 1937	Mar. 14, 1938	(4)
Joseph Birnbaum & Lewmoc, Furs, Inc	June 6, 1938	June 23, 1938	(5)
Joseph H. Meyer & Bros	Apr. 13, 1938	May 18, 1938	[1] Nov. 8, 1938
Julius Breckwaldt & Sons, Inc	Dec. 14, 1937	Dec. 18, 1937	Oct. 8, 1938
J. Wiss and Sons Co	Mar. 21, 1938	Mar. 25, 1938	May 2, 1939
Kansas City Power & Light Co	Jan. 6, 1938	Jan. 28, 1938	May 31, 1939
Kansas City Structural Steel	June 27, 1938	July 21, 1938	Apr. 20, 1939
Kessner & Rabinowitz, Inc	Mar. 24, 1938	Mar. 25, 1938	Mar. 16, 1939
Killefer Manufacturing Corporation, Ltd	Apr. 28, 1938	June 7, 1938	(4)
Kingan & Co	Mar. 24, 1938	Mar. 24, 1938	[1] Sept. 12, 1938
Kingsbury Manufacturing Co	Nov. 8, 1937	Nov. 10, 1937	Dec. 8, 1938
Knickerbocker Broadcasting Co., Inc	Apr. 20, 1938	Apr. 21, 1938	[1] Aug. 1, 1938
Knoxville Publishing Co	Feb. 3, 1938	Feb. 16, 1938	May 26, 1939
Kokomo Sanitary Pottery Co	Dec. 13, 1937	Dec. 17, 1937	(4)
K. V. O. S., Inc	Apr. 22, 1938	Apr. 23, 1938	(5)
Lady Ester Lingerie Corporation	Oct. 14, 1937	Oct. 26, 1937	Dec. 13, 1938
Lafayette Hotel	Mar. 21, 1938	Mar. 24, 1938	(7)
Laird Schober Shoe Co	June 2, 1938	June 7, 1938	(4)
Lane Cotton Mills	July 20, 1937	July 23, 1937	[18] Nov. 19, 1938
Lane Cotton Mills Co	Oct. 18, 1937[19]	Oct. 26, 1937[19]	[18] Do.
Lansing Co	June 30, 1938	July 8, 1938	(4)
Larson Nash Motors Co	Dec. 3, 1937	Dec. 7, 1937	Jan. 17, 1939
L. C. Phenix Co	Dec. 10, 1937	June 22, 1938	[1] Oct. 13, 1938
L. C. Smith Typewriter Co	June 23, 1938	June 24, 1938	Mar. 30, 1939
Leviton Manufacturing Co	Aug. 23, 1937	Aug. 23, 1937	Mar. 20, 1939

See footnotes at end of table, p. 168.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Lewis-Chambers Construction Co	Mar. 14, 1938	Mar. 17, 1938	(7)
L. Grief & Bros., Inc	Sept. 20, 1937	Sept. 21, 1937	June 28, 1939
Libby, McNeill & Libby	Apr. 11, 1938	Sept. 8, 1938	(4)
Lightner Publishing Co	Apr. 14, 1938	Apr. 14, 1938	May 26, 1939
Lindeman Power & Equipment	Nov. 26, 1937	Nov. 30, 1937	Mar. 2, 1939
Link Belt Co	Mar. 14, 1938	Mar. 23, 1938	May 12, 1939
Lipscomb Seed & Grain Co	May 23, 1938	June 1, 1938	[1] Nov. 23, 1938
Louis Weinberg Associates, Inc	Sept. 28, 1938	Oct. 6, 1938	(3)
Lone Star Bag & Bagging Co	Aug. 26, 1937	Sept. 13, 1937	July 13, 1938
Los Angeles Brick & Clay Products	Dec. 16, 1937	Jan. 10, 1938	Feb. 27, 1939
Luckenback Steamship Co., Inc	Jan. 10, 1938	Jan. 14, 1938	Sept. 8, 1938
Mackay Radio Corporation of Del	Sept. 29, 1937[20]	Oct. 2, 1937[20]	(6)
Magnolia Petroleum Co	June 1, 1938	June 14, 1938	(4)
M. A. Hanna Mining Co	June 2, 1938	June 8, 1938	(4)
Majestic Flour Mills	June 3, 1938	July 2, 1938	(4)
Marathon Rubber Products Co	Dec. 9, 1937	Dec. 11, 1937	Dec. 19, 1938
Do	do	do	Do.
Maryland Bolt & Nut Co	June 2, 1938	June 7, 1938	(4)
Mason Mfg. Co	May 26, 1938	do	(4)
Mathieson Alkali Works, Inc	June 6, 1938	June 24, 1938	(4)
Matson Navigation Co	Aug. 19, 1937[3]	Aug. 19, 1937[3]	Jan. 21, 1939
M. Bierner & Son	Sept. 30, 1937	Sept. 30, 1937	(4)
McCormick, S. S., Co	Aug. 19, 1937[3]	Aug. 19, 1937[3]	Jan. 21, 1939
McKaig-Hatch, Inc	Dec. 2, 1937	Dec. 10, 1937	Dec. 3, 1938
Merchant's Delivery Co	do	Dec. 9, 1937	(7)
Mexia Textile Mills	May 2, 1938	May 5, 1938	Mar. 16, 1939
Midland Steel Products Co	Feb. 24, 1938	Mar. 2, 1938	Mar. 18, 1939
Mid States Gummed Paper Co	May 5, 1938	May 6, 1938	Feb. 16, 1939
Midwest Metal Stamping Co	June 23, 1938	June 24, 1938	[1] July 26, 1938
Miller Corsets, Inc	Dec. 2, 1937	Dec. 3, 1937	July 5, 1938
Milne Chair Co	Apr. 28, 1938	May 6, 1938	(4)
Minneapolis-Moline Power Implement Co	Mar. 24, 1938	Mar. 26, 1938	Aug. 1, 1938
Mission Hosiery Mills, A. H. Wittenberg, Inc	June 6, 1938	June 10, 1938	(4)
Missouri-Kansas-Oklahoma Coach Lines	Sept. 7, 1937	Oct. 1, 1937	Nov. 2, 1938
M. & J. Tracy, Inc	Feb. 21, 1938	Mar. 11, 1938	May 13, 1939
M. K. O. Coach Lines	Sept. 7, 1937	Sept. 9, 1937	Nov. 2, 1938
Mock-Judson-Voehringer Co	Dec. 6, 1937	Dec. 8, 1937	July 7, 1938
Mohawk Carpet Mills, Inc	Apr. 21, 1938	May 20, 1938	May 26, 1939
Moline Iron Works	Mar. 21, 1938	Mar. 23, 1938	[1] Nov. 7, 1938
Moltrup Steel Products Co	Feb. 7, 1938	Mar. 30, 1938	(4)
Montgomery Ward & Co	Mar. 17, 1937	Mar. 24, 1937	Oct. 29, 1938
Mor-Pak Preserving Corporation	Apr. 11, 1938	Sept. 8, 1938	(4)
Morphy Shoe Co	Apr. 14, 1938	Apr. 15, 1938	Dec. 10, 1938
Morse Bros. Machinery Co	May 20, 1938	May 21, 1938	(2)
Mountain Motors Co	Dec. 8, 1937	Dec. 9, 1937	Jan. 17, 1939
Mt. Vernon Car Manufacturing Co	Oct. 18, 1937	Dec. 18, 1937	Feb. 21, 1939
M. Trelles & Co	Apr. 28, 1938	May 3, 1938	May 15, 1939
Muskin Shoe Co	Nov. 22, 1937	Nov. 23, 1937	July 5, 1938
National Meter Co	May 23, 1938	May 26, 1938	Feb. 15, 1939
National Shoe Corporation	June 13, 1938	June 20, 1938	Nov. 9, 1938
The National Supply Co	Apr. 14, 1938	Apr. 26, 1938	(4)
National Vulcanized Fibre Co	Mar. 10, 1938	Mar. 11, 1938	(6)
Do	do	do	(6)
Do	do	do	(6)
Nebraska Power Co	June 16, 1938	July 1, 1938	(4)
Nekoosa Edwards Paper Co	Feb. 10, 1938	Feb. 17, 1938	Feb. 20, 1939
Do	do	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Newark Rivet Works	Nov. 26, 1937	Jan. 18, 1938	Oct. 27, 1938
Nevada Consolidated Copper Corporation	May 2, 1938	June 13, 1938	(4)
Newport News Shipbuilding Co	Aug. 20, 1937	Sept. 8, 1937	Aug. 9, 1938
Newton Carton Co., Inc	Apr. 11, 1938	Apr. 12, 1938	(16)
N. Y. Butchers Dressed Meat Co. (division of Armour & Co.)	May 19, 1938	May 19, 1938	(7)
New York Handkerchief Co	June 30, 1938	July 8, 1938	(4)
Niagara Box Factory, Inc	Dec. 16, 1937	Dec. 29, 1937	(7)
Norfolk Shipbuilding & Drydock Corporation	Apr. 7, 1938	Apr. 8, 1938	May 12, 1939
North River Yarn Dyers	Nov. 18, 1937	Nov. 18, 1937	Jan. 9, 1939
Oberman & Co., Inc	Oct. 18, 1937	Oct. 22, 1937	(8)
Ohio Brass Co	June 27, 1938	June 29, 1938	(4)
Ohio Power Co	Dec. 28, 1937	Jan. 22, 1938	[1] Apr. 3, 1939
Okey Hosiery Co	June 27, 1938	June 29, 1938	(4)
Packwell Corporation	Apr. 11, 1938	Sept. 8, 1938	(4)
Padre Vineyard Co	Jan. 13, 1938	Feb. 1, 1938	[1] Mar. 14, 1939
Panther-Panco Rubber Co	Feb. 24, 1938	Mar. 5, 1938	Mar. 23, 1939
Patriarca Store Fixtures, Inc	Jan. 13, 1938	Jan. 14, 1938	Apr. 5, 1939
Pennsylvania Furnace & Iron Co	Jan. 4, 1938	Jan. 6, 1938	[1] June 3, 1939
Phillips Granite Co	Feb. 27, 1938	Mar. 3, 1938	Mar. 3, 1939
Pittsburgh Standard Envelope Co	June 6, 1938	June 17, 1938	(4)

See footnotes at end of table, p. 168.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Planters Manufacturing Co	Nov. 23, 1937	Dec. 4, 1937	Dec. 20, 1938
Picker X-Ray Corporation	Mar. 21, 1938	Mar. 31, 1938	May 31, 1939
Plylock Corporation (M. & M. Woodworking)	Jan. 4, 1938	Jan. 8, 1938	[21] Apr. 18, 1938
Precision Castings Co., Inc	Nov. 29, 1937	Dec. 1, 1937	Aug. 11, 1938
Pulaski Veneer Corporation	Feb. 3, 1938	Feb. 12, 1938	Dec. 3, 1938
Pure Oil Co	Nov. 29, 1937	Dec. 7, 1937	July 11, 1938
Quality Art Novelty Co	May 19, 1938	June 17, 1938	(4)
Raleigh Hotel Co	Mar. 24, 1938	Apr. 2, 1938	(4)
Ray Nichols, Inc	June 27, 1938	June 29, 1938	(4)
Reading Battery Co., Inc	Apr. 28, 1938	May 5, 1938	(4)
Reed & Prince Co	Dec. 6, 1937	Jan. 18, 1938	May 15, 1939
Reinecke Coal Co	Sept. 13, 1937	Sept. 22, 1937	Feb. 23, 1939
Reliance Manufacturing Co	Nov. 18, 1937	July 13, 1938	(4)
Do	Apr. 18, 1938	do	(4)
Do	do	do	(4)
Do	do	do	(4)
Republic Steel Co	July 21, 1937	Sept. 27, 1937	[22] Oct. 18, 1938
Revolution Cotton Mills Co	Dec. 9, 1937	Dec. 15, 1937	Oct. 24, 1938
Richmond-Chase Co	Apr. 11, 1938	Sept. 8, 1938	(4)
Robert H. Foerderer	Mar. 23, 1936	Apr. 6, 1936	(16)
Roberti Bros., Inc	Dec. 2, 1937	Dec. 28, 1937	Aug. 16, 1938
Rockton & Rion R. R	May 9, 1938	May 11, 1938	(4)
Ronni Parfume, Inc. and Ey-Teb Sales Corporation	Dec. 6, 1937	Dec. 7, 1937	July 18, 1938
Ross Packing Co	Feb. 28, 1938	Mar. 8, 1938	Mar. 4, 1939
R. R. Hall, Inc	Dec. 20, 1937	Dec. 22, 1937	Jan. 17, 1939
Sanitary Refrigerator Co	May 5, 1938	June 11, 1938	(4)
Santa Cruz Fruit Packing Co	Apr. 11, 1938	Sept. 8, 1938	(4)
Sager Lock Works	June 23, 1938	June 30, 1938	(4)
Schacht Rubber Co., Inc. (Firestone Tire & Rubber Co.)	Mar. 31, 1938	Apr. 1, 1938	[1] July 18, 1938
Schwab & Schwab	Dec. 6, 1937	Dec. 10, 1937	Jan. 28, 1939
Scobey Fireproof Storage Co	Apr. 28, 1938	Apr. 30, 1938	(4)
Seattle Post Intelligencer (Wm. Randolph Hearst, Hearst Publications)	Mar. 10, 1938	Apr. 1, 1938	(4)
Serrick Corporation	Oct. 18, 1937	Nov. 15, 1937	July 27, 1938
Servel, Inc	Dec. 13, 1937	Jan. 18, 1938	Mar. 25, 1939
Seymour Woolen Mills	June 13, 1938	June 14, 1938 [1]	July 18, 1938
Do	do	do	[1] Do.
Sharon Optical Co., Inc	Mar. 2, 1938	Mar. 2, 1938	Mar. 2, 1939
Shelby Shops, Inc	May 16, 1938	May 26, 1938 [1]	July 28, 1938
Shellabarger Grain Produce (Spencer Kellogg & Sons, N.Y.)	Nov. 4, 1937	Nov. 13, 1937	July 18, 1939
Shell Petroleum Co	do	do	Dec. 20, 1938
Shenandoah-Dives Mining Co	Apr. 7, 1938	Apr. 9, 1938	Mar. 2, 1939
S. H. Penick Drug Co	Feb. 7, 1938	Feb. 23, 1938	(5)
Singer Sewing Machine Co. (Singer Manufacturing Co.)	Mar. 28, 1938	Mar. 28, 1938 [21]	Aug. 8, 1938
Sixth Vein Coal Co	Sept. 13, 1937	Sept. 22, 1937	Feb. 23, 1939
Skinner & Kennedy Printing Co	June 6, 1938	June 10, 1938	(4)
Smith Woods Products Co	Apr. 25, 1938	Apr. 27, 1938	(4)
South Atlantic Steamship Co	Mar. 24, 1938	Mar. 29, 1938	May 31, 1939
Southern Colorado Power Co	June 2, 1938	June 6, 1938	(4)
Southern Steamship Co	Apr. 11, 1938	Apr. 11, 1938	May 18, 1939
Southport Refinery Co	Dec. 13, 1937	Dec. 17, 1937	Aug. 4, 1938
Southwestern Greyhound Lines, Inc	Apr. 4, 1938 [23]	Dec. 3, 1938 [23]	(23)
Spotless Stores, Inc	Oct. 18, 1937 [24]	Oct. 19, 1937 [24]	(5)
Standard Oil Co. (Indiana)	Jan. 24, 1938	Feb. 18, 1938	(4)
Standard Steel Works	May 17, 1938	June 1, 1938	(4)
Standolind Oil & Gas Co	Jan. 24, 1938	Feb. 17, 1938	(4)
Stehli & Co., Inc	Nov. 1, 1937	Dec. 15, 1937	Mar. 30, 1939
Sterling Co	Apr. 18, 1938	July 13, 1938	(4)
Do	do	do	(4)
Sterling Corset Co., Inc	Oct. 15, 1937	Dec. 4, 1937	Nov. 5, 1938
Stewart Die Casting Corporation	June 21, 1938	June 24, 1938	(4)
Stockton Food Products, Inc. et al	Apr. 11, 1938	Sept. 8, 1938	(4)
Stolle Corp	Nov. 22, 1937	Dec. 3, 1937	June 23, 1939
Sudden & Christenson	Aug. 19, 1937 [3]	Aug. 19, 1937 [3]	Jan. 21, 1939
Surpass Leather Co	June 16, 1938	June 23, 1938	(4)
Swift and Co	Feb. 17, 1938	Mar. 11, 1938	Mar. 1, 1939
Do	June 6, 1938	June 8, 1938	(4)
S. Y. W. Hosiery Mills, Inc	May 27, 1938	May 27, 1938	Apr. 14, 1939
T. A. Allen Construction Co	Feb. 23, 1938	Mar. 23, 1938	(15)
Do	do	do	(15)
Tennessee Coal, Iron & Railroad Co	Nov. 8, 1937	June 2, 1938	(4)
Texas Co	May 16, 1938	May 28, 1938	(4)
Texas Co. (Port Neches Works)	do	do	(4)
Texas Corrugated Box Co	June 23, 1938	June 23, 1938 [1]	Sept. 16, 1938
The Call Printing & Publishing Co	Apr. 7, 1938	Apr. 14, 1938	(4)
The Monarch Co	June 6, 1938	June 11, 1938	(4)
The Niles Fire Brick Co	Mar. 10, 1938	Mar. 17, 1938	(4)
The Operators Association	Sept. 13, 1937	Sept. 13, 1937	Feb. 23, 1939
Thompson Cabinet Co	Mar. 10, 1938	Mar. 12, 1938	Mar. 14, 1939
Tidewater Iron & Steel Co	Jan. 22, 1938	Feb. 2, 1938	Nov. 2, 1938
Titmus Optical Co	Jan. 6, 1938	Jan. 8, 1938	Nov. 21, 1938

See footnotes at end of table, p. 168.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Tovrea Packing Co	Mar. 14, 1938	Mar. 18, 1938	May 18, 1939
Triplex Screw Co	Apr. 15, 1938	Apr. 23, 1938	[4]
Truitt Bros. Shoe Co	Feb. 28, 1938	Mar. 2, 1938	[2]
Tulsa Boiler & Machinery Co	June 2, 1938	June 9, 1938	[4]
Union Drawn Steel Co	Dec. 2, 1937	Dec. 14, 1937	Dec. 30, 1938
Union Envelope Co	Oct. 7, 1937	Oct. 12, 1937	Jan. 16, 1939
Do	do	do	Do.
Do	do	do	Do.
Union Stock Yards Co	June 20, 1938	June 22, 1938	[4]
Union-Tribune Publishing Co	Nov. 29, 1937	Dec. 8, 1937	May 2, 1939
United Fruit Co	June 21, 1938	July 6, 1938	Apr. 21, 1939
U. S. Potash Co	Feb. 21, 1938	Mar. 1, 1938	Jan. 18, 1939
Do	do	do	Do.
U. S. Smelting, Refining & Mining Co	Mar. 10, 1938	Mar. 14, 1938	Jan. 6, 1939
U. S. Truck Co	Jan. 24, 1938	Feb. 16, 1938	Feb. 24, 1939
Universal Clothing Co., Inc	Sept. 30, 1937	Sept. 30, 1937	[2]
Universal Film Exchange, Inc	May 26, 1938	May 27, 1938	[4]
Universal Match Co	June 16, 1938	July 12, 1938	[4]
Up-To-Date Candy Manufacturing Co	Apr. 4, 1938	Apr. 8, 1938	[7]
Vail-Ballou Press, Inc	May 23, 1938	May 27, 1938	[4]
Viking Pump Co	Apr. 28, 1938	May 4, 1938	[4]
Virginia Electric & Power Co	May 19, 1938	June 18, 1938	[4]
Do	do	do	[4]
Do	do	do	[4]
Virginia Ferries Co	Nov. 22, 1937	Nov. 26, 1937	Aug. 1, 1938
Do	do	do	Do.
Walworth Manufacturing Co	June 13, 1938	June 23, 1938	[4]
Ward Baking Co	Oct. 11, 1937	[25] Oct. 12, 1937	[26] July 23, 1938
Do	Jan. 24, 1938	Jan. 24, 1938	Do.
Washburn Wire Co., Inc	Feb. 15, 1938	Apr. 1, 1938	[2]
Washington Dehydrated Food Co	Feb. 23, 1938	Feb. 25, 1938	[4]
Washougal Woolen Mills	Feb. 21, 1938	Mar. 2, 1938	[4]
Watson Bros. Transportation Co. Inc	May 2, 1938	May 3, 1938	Apr. 22, 1939
Waumbeck Co	June 27, 1938	June 27, 1938	[4]
Weber Dental Co	Dec. 13, 1937	Dec. 14, 1937	Jan. 27, 1939
Weinberger Banana Co., Inc	Feb. 21, 1938	Mar. 8, 1938	[4]
Weirton Steel Co	Aug. 16, 1937	Jan. 30, 1939	[4]
Wester Garment Manufacturing Co	Mar. 21, 1938	Mar. 23, 1938	Dec. 13, 1938
Western Felt Works	Dec. 22, 1937	Jan. 21, 1938	Dec. 9, 1938
Western Union Telegraph Co	Mar. 28, 1938	Mar. 28, 1938	[1] June 18, 1938
Do	June 1, 1938	July 25, 1938	[4]
Westinghouse Electric Manufacturing Co	May 5, 1938	May 13, 1938	[4]
West Kentucky Coal Co	Dec. 17, 1937	Jan. 11, 1938	Dec. 3, 1938
West Oregon Lumber Co	May 26, 1938 [16]	June 30, 1938 [16]	[4]
W. F. & John Barnes Co	June 13, 1938	June 14, 1938	May 17, 1939
Wilkes-Barre Record Co	Apr. 18, 1938	Apr. 20, 1938	[2]
Williams Coal Co	Sept. 13, 1937	Sept. 22, 1937	Feb. 23, 1939
Wilson & Co	May 23, 1938	June 3, 1938	[4]
Winnsboro Granite Co	May 9, 1938	May 11, 1938	[4]
Wisconsin Axle Co	Mar. 17, 1938	Mar. 18, 1938	Feb. 9, 1939
Wisconsin Bell Telephone Co	Feb. 27, 1938	Feb. 22, 1938	Apr. 20, 1939
Do	Feb. 7, 1938	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Wolte & Koeing, Lynn Coal	Apr. 11, 1938	May 4, 1938	[11]
Yale & Towne Manufacturing Co	July 22, 1937	Aug. 17, 1937	Jan. 20, 1939

[1] Decision issued by stipulation after hearing.
[2] Case closed by compliance with intermediate report.
[3] Additional hearing on Apr. 12, 1938.
[4] Awaiting decision.
[5] Additional hearing on Oct. 27 and Oct. 28, 1938.
[6] Settled after hearing.
[7] Withdrawn after hearing.
[8] Decision of Apr. 28, 1938, set aside on Aug. 18, 1938, and second decision issued on Apr. 17, 1939.
[9] Decision issued by stipulation before hearing.
[10] Additional hearing on July 1, 1938.
[11] Case closed by intermediate report dismissing complaint.
[12] Decision of Apr. 20, 1938, set aside and second decision issued on Dec. 7, 1938.
[13] Additional hearing on Sept. 14, 1937, through Sept. 17, 1937.
[14] Resumed hearing on May 15, 1939, which is still in progress.
[15] Decision of Apr. 9, 1938, set aside.
[16] Dismissed after hearing.
[17] Decision of Apr. 5, 1938, set aside.
[18] Decision of June 13, 1938, set aside.
[19] Additional hearing on Feb. 7 and Feb. 8, 1938.
[20] Additional hearing on Jan. 18, 1938.
[21] Case settled after decision was set aside.
[22] Decision of Apr. 8, 1938, set aside.
[23] Second hearing began on Nov. 21, 1938, and is still in progress.
[24] Additional hearing on Jan. 3, 1938, through Jan. 6, 1938.
[25] Additional hearing on Jan. 24, 1938.
[26] Additional hearing on Sept. 1 and Sept. 2, 1938.

LIST OF CASES HEARD AND DECISIONS RENDERED

Following is a list of cases heard during the fiscal year 1938–39:

Unfair labor practice cases

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Acme-Evans Co.	April 10, 1939	May 5, 1939	(1)
Do.	----do----	----do----	(1)
Acme Transfer	July 29, 1938[2]	Jan. 19, 1939[2]	[2]Feb. 11, 1939
Adams Bros. Salesbook Co.	Dec. 15, 1938	Dec. 22, 1938	(1)
Adriondock Foundries & Steel, Inc.	July 21, 1938	July 23, 1938	(1)
A. E. Staley Mfg. Co.	Dec. 12, 1938	Dec. 16, 1938	(1)
Air Associates, Inc.	Sept. 22, 1938	Oct. 18, 1938	(1)
A. Krueger Brewing Co., Inc.	(4)	(5)	[4]Apr. 27, 1939
Alabama Hosiery Mills	July 18, 1938	July 21, 1938	(1)
Alabama Power Co.	Nov. 3, 1938	Dec. 7, 1938	(1)
Albert S. Bartson	Sept. 19, 1938	Sept. 20, 1938	(1)
Algoma Net Company	June 5, 1939	June 9, 1939	(1)
Allsteel Products Manufacturing Co.	July 25, 1938	July 29, 1939	(1)
Alma Mills	Dec. 13, 1938	Jan. 7, 1939	(1)
A. L. Tucker	Jan. 12, 1939	Jan. 19, 1939	[3]Feb. 11, 1939
Aluminum Goods Manufacturing Co.	Aug. 22, 1938	Sept. 20, 1938	(1)
American Brake Shoe & Foundry Co.	(5)	(5)	[5]May 17, 1939
Do.	(5)	(5)	[5] Do.
American Hair & Belt Co.	Nov. 7, 1938	Nov. 15, 1938	(1)
American Newspapers, Inc., Illinois Publishing & Printing Co.	Oct. 22, 1938	Nov. 18, 1938	(1)
American Scantic Line	Mar. 20, 1939	(6)	(6)
Aniline Works	Apr. 3, 1939	May 2, 1939	(1)
Argonne Worsted Co.	Oct. 13, 1938	Oct. 18, 1938	[3]Nov. 16, 1938
Art Metal Construction Co.	Dec. 19, 1938	Dec. 19, 1938	May 27, 1939
A. Sartorious Co.	Apr. 24, 1939	June 3, 1939	(1)
Associated Motor Carriers of Louisiana	July 29, 1938[5]	Jan. 19, 1939[2]	[2]Feb. 11, 1939
Atlas Tock Co.	(5)	(4)	[4]Oct. 8, 1938
Atlas Underwear Co.	June 19, 1939	June 27, 1939	(1)
Azar & Solomon	(5)	(4)	[4]Sept. 19, 1938
Baldwin Locomotive Works	Dec. 16, 1938	May 27, 1939	(1)
Baltimore Type & Composition Corporation	(5)	(5)	[5]Nov. 19, 1938
Bauman Bros. Furniture Co.	Oct. 13, 1938	Oct. 25, 1938	(1)
Bayuk Cigars, Inc.	Apr. 25, 1939	May 6, 1939	(1)
B. Blumenthal & Co., Inc.	Oct. 10, 1938	Dec. 5, 1938	(7)
Beacon Ladies Hat	July 29, 1938	July 30, 1938	(4)
Bernard Schwartz Cigar Co.	Mar. 13, 1939	Mar. 14, 1939	[3]Apr. 3, 1939
Best Coat & Apron Manufacturing Corporation	(5)	(5)	[5]May 20, 1939
B. F. Johnson Lumber Co.	(5)	(5)	[5]Apr. 11, 1939
Do.	(5)	(5)	[5]Do.
Bilt-Well Umbrella Co.	Apr. 17, 1939	Apr. 26, 1938	(1)
Bisbee Linseed Co.	Oct. 13, 1938	Oct. 18, 1938	(1)
Bishop & Co., Inc.	Aug. 16, 1938	Aug. 20, 1938	(7)
Blocksom & Co.	(5)	(5)	[5]Mar. 30, 1939
Blossom Products Co.	Oct. 6, 1938	Oct. 11, 1938	(1)
Bluff City Lime Co.	Nov. 7, 1938	Nov. 12, 1938	[5]Jan. 3, 1939
Booth Fisheries Co.	Mar. 23, 1939	Mar. 24, 1939	(1)
B. & P. Transfer Co.	Sept. 1, 1938	Sept. 2, 1938	[2]Nov. 15, 1939
Boulet Transportation Co.	Jan. 12, 1939	Jan. 19, 1939	(5)
Bradley Lumber Co. of Arkansas	(5)	(5)	[5]Mar. 9, 1939
Brewer-Tichener Corporation	Aug. 15, 1938	Aug. 19, 1938	(1)
Brooklyn Union Gas Co.	Oct. 17, 1938	Nov. 7, 1938	(1)
Brown Shoe Co.	July 5, 1938	July 20, 1938	(1)
Buckley Hemlock Mills, Inc.	July 25, 1938	July 29, 1938	(5)
Bunte Bros. Candy Manufacturing Co.	June 29, 1939	(6)	(6)
Burk Bros.	Jan. 5, 1939	Jan. 6, 1939	(1)
Cactus Mines Co.	Nov. 17, 1938	Nov. 29, 1938	(1)
California Cotton Oil Corporation	Sept. 26, 1938	Oct. 5, 1938	(1)
Do.	----do----	----do----	(1)
Capital Shingle Co.	Aug. 4, 1938	Aug. 9, 1938	(1)
Capital Theatre Bus Terminal	Aug. 25, 1938	Aug. 29, 1938	(1)
Carbola Chemical Co., Inc.	July 7, 1938	July 7, 1938	(1)

See footnotes at end of table, p. 175.

LIST OF CASES HEARD AND DECISIONS RENDERED

Following is a list of cases heard during the fiscal year 1938–39:

Unfair labor practice cases

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Acme-Evans Co.	April 10, 1939	May 5, 1939	(1)
Do.	----do----	----do----	(1)
Acme Transfer	July 29, 1938[2]	Jan. 19, 1939[2]	[2]Feb. 11, 1939
Adams Bros. Salesbook Co.	Dec. 15, 1938	Dec. 22, 1938	(1)
Adriondock Foundries & Steel, Inc.	July 21, 1938	July 23, 1938	(1)
A. E. Staley Mfg. Co.	Dec. 12, 1938	Dec. 16, 1938	(1)
Air Associates, Inc.	Sept. 22, 1938	Oct. 18, 1938	(1)
A. Krueger Brewing Co., Inc.	(4)	(5)	[5]Apr. 27, 1939
Alabama Hosiery Mills	July 18, 1938	July 21, 1938	(1)
Alabama Power Co.	Nov. 3, 1938	Dec. 7, 1938	(1)
Albert S. Bartson	Sept. 19, 1938	Sept. 20, 1938	(1)
Algoma Net Company	June 5, 1939	June 9, 1939	(1)
Allsteel Products Manufacturing Co.	July 25, 1938	July 29, 1939	(1)
Alma Mills	Dec. 13, 1938	Jan. 7, 1939	(1)
A. L. Tucker	Jan. 12, 1939	Jan. 19, 1939	[2]Feb. 11, 1939
Aluminum Goods Manufacturing Co.	Aug. 22, 1938	Sept. 20, 1938	(1)
American Brake Shoe & Foundry Co.	(2)	(3)	[3]May 17, 1939
Do.	(3)	(3)	[3] Do.
American Hair & Belt Co.	Nov. 7, 1938	Nov. 15, 1938	(1)
American Newspapers, Inc., Illinois Publishing & Printing Co.	Oct. 22, 1938	Nov. 18, 1938	(1)
American Scantic Line	Mar. 20, 1939	(6)	(6)
Aniline Works	Apr. 3, 1939	May 2, 1939	(1)
Argonne Worsted Co.	Oct. 13, 1938	Oct. 18, 1938	[2]Nov. 16, 1938
Art Metal Construction Co.	Dec. 19, 1938	Dec. 19, 1938	May 27, 1939
A. Sartorious Co.	Apr. 24, 1939	June 3, 1939	(1)
Associated Motor Carriers of Louisiana	July 29, 1938[5]	Jan. 19, 1939[2]	[2]Feb. 11, 1939
Atlas Tock Co.	(3)	(3)	[3]Oct. 8, 1938
Atlas Underwear Co.	June 19, 1939	June 27, 1939	(1)
Azar & Solomon	(5)	(4)	[5]Sept. 19, 1938
Baldwin Locomotive Works	Dec. 16, 1938	May 27, 1939	(1)
Baltimore Type & Composition Corporation	(5)	(5)	[5]Nov. 19, 1938
Bauman Bros. Furniture Co.	Oct. 13, 1938	Oct. 25, 1938	(1)
Bayuk Cigars, Inc.	Apr. 25, 1939	May 6, 1939	(1)
B. Blumenthal & Co., Inc.	Oct. 10, 1938	Dec. 5, 1938	(7)
Beacon Ladies Hat	July 29, 1938	July 30, 1938	(4)
Bernard Schwartz Cigar Co.	Mar. 13, 1939	Mar. 14, 1939	[3]Apr. 3, 1939
Best Coat & Apron Manufacturing Corporation	(3)	(3)	[3]May 20, 1939
B. F. Johnson Lumber Co.	(5)	(3)	[3]Apr. 11, 1939
Do.	(5)	(5)	[5]Do.
Bilt-Well Umbrella Co.	Apr. 17, 1939	Apr. 26, 1938	(1)
Bisbee Linseed Co.	Oct. 13, 1938	Oct. 18, 1938	(1)
Bishop & Co., Inc.	Aug. 16, 1938	Aug. 20, 1938	(7)
Blocksom & Co.	(3)	(3)	[3]Mar. 30, 1939
Blossom Products Co.	Oct. 6, 1938	Oct. 11, 1938	(1)
Bluff City Lime Co.	Nov. 7, 1938	Nov. 12, 1938	[3]Jan. 3, 1939
Booth Fisheries Co.	Mar. 23, 1939	Mar. 24, 1939	(1)
B. & P. Transfer Co.	Sept. 1, 1938	Sept. 2, 1938	[2]Nov. 15, 1939
Boulet Transportation Co.	Jan. 12, 1939	Jan. 19, 1939	(5)
Bradley Lumber Co. of Arkansas	(3)	(3)	[3]Mar. 9, 1939
Brewer-Tichener Corporation	Aug. 15, 1938	Aug. 19, 1938	(1)
Brooklyn Union Gas Co.	Oct. 17, 1938	Nov. 7, 1938	(1)
Brown Shoe Co.	July 5, 1938	July 20, 1938	(1)
Buckley Hemlock Mills, Inc.	July 25, 1938	July 29, 1938	(5)
Bunte Bros. Candy Manufacturing Co.	June 29, 1939	(6)	(6)
Burk Bros.	Jan. 5, 1939	Jan. 6, 1939	(1)
Cactus Mines Co.	Nov. 17, 1938	Nov. 29, 1938	(1)
California Cotton Oil Corporation	Sept. 26, 1938	Oct. 5, 1938	(1)
Do.	----do----	----do----	(1)
Capital Shingle Co.	Aug. 4, 1938	Aug. 9, 1938	(1)
Capital Theatre Bus Terminal	Aug. 25, 1938	Aug. 29, 1938	(1)
Carbola Chemical Co., Inc.	July 7, 1938	July 7, 1938	(1)

See footnotes at end of table, p. 175.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Forest City Manufacturing Co	Feb. 23, 1939	Mar. 27, 1939	[3] Apr. 22, 1939
Foster Bros. Manufacturing Co	Aug. 18, 1938	Aug. 25, 1938	(1)
Franklin Printing Co	(5)	(5)	[5] Nov. 19, 1938
Frederic H. Burnham	Mar. 16, 1939	Mar. 29, 1939	(1)
Freed Heater Mfg. Co	(5)	(5)	[5] Aug. 20, 1938
Ft. Worth Well Machinery & Supply Co	July 18, 1938	July 20, 1939	(5)
Fulton Metal Bed Co	July 14, 1938	July 16, 1938	(1)
Gaffney Manufacturing Co	(5)	(5)	[5] May 31, 1939
Gates Rubber Co	Dec. 8, 1938	Dec. 8, 1938	June 8, 1939
Do	do	do	Do.
General Dry Battery Co	May 4, 1939	May 6, 1939	(1)
General Furniture Co	July 1, 1938	Aug. 1, 1938	(1)
Geo. J. Hefler	[2] July 29, 1938	Aug. 6, 1938 [2]	[3] Feb. 11, 1939
Geo. P. Pilling & Son Co	Feb. 23, 1939	Feb. 24, 1939	(1)
Golden Cycle Corp	July 21, 1938	Aug. 2, 1938	(1)
Goodyear Tire & Rubber Co	May 22, 1939	(6)	(6)
Graves Co	June 20, 1939	(6)	(6)
Great States Manufacturing Co	(5)	(5)	[5] June 7, 1939
Greer Steel Co	(5)	(5)	[5] Jan. 7, 1939
Gudebrod Bros., Inc	(5)	(5)	[5] Nov. 25, 1938
Gulf Produce Co-op., Inc	July 21, 1938	July 21, 1938	(1)
Gulf Public Service Co	Aug. 8, 1938	Sept. 6, 1938	(1)
Gunn Furniture Co	May 25, 1939	May 26, 1939	(1)
Gutman & Co	Aug. 18, 1938	Aug. 27, 1938	(1)
Halff Manufacturing Co	Apr. 24, 1939	Apr. 28, 1939	(1)
Hamann's Transfer Co., Inc	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
Hamilton-Brown Shoe Co., Poplar Bluff, Mo., Plant	Apr. 10, 1939	(6)	(6)
Hammond Box Co., Inc	Aug. 30, 1938	Aug. 31, 1938	(7)
Hamrick Mills	Dec. 13, 1938	Jan. 7, 1939	(1)
Hanover Cordage Co	Mar. 30, 1939	Mar. 21, 1939	[3] Apr. 27, 1939
Harbor Plywood Corporation	June 29, 1939	(6)	(6)
Harry S. Scott, Inc	(5)	(5)	[5] Nov. 19, 1938
Harriss Woolen Co	July 28, 1938	July 30, 1938	Mar. 7, 1939
Hartsell Mills Co	July 21, 1938	July 23, 1938	(1)
Hatfield Wire & Cable Co	Nov. 7, 1938	Nov. 15, 1938	[3] Dec. 21, 1938
Harvey H. Huth, doing business as St. Charles Transfer Co	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
Hatfield Clothing Co	(5)	(5)	[5] Jan. 24, 1939
H. Bomze & Bros	Oct. 10, 1938	Oct. 10, 1938	(7)
Heintz Mfg. Co	May 8, 1939	May 12, 1939	(1)
Henry Glass & Co	Jan. 5, 1939	Jan. 13, 1939	(1)
Hirsch Shirt Corporation	(5)	(5)	[5] Apr. 28, 1939
Hobbs-Wall Co	Aug. 8, 1938	Sept. 1, 1938	(1)
Hobbs-Wall & Co	do	do	(1)
Holland Manufacturing Co	Oct. 13, 1938	Oct. 19, 1938	(1)
Hollywood Citizen-News Co	July 5, 1938	July 12, 1938	(1)
Holston Manufacturing Co	July 7, 1938	July 8, 1938	(1)
Hoosier Veneer Co	Oct. 6, 1938	Oct. 12, 1938	(1)
H. R. Webb Neckwear Manufacturing Co	Nov. 28, 1938	Nov. 29, 1938	(1)
Hubbard Division, Continental Roll & Steel Foundry	Jan. 26, 1939	Feb. 20, 1939	(1)
Hummer Manufacturing Co., branch of Montgomery Ward & Co	Sept. 1, 1938	Sept. 2, 1938	(1)
Do	do	do	(1)
Ideal Electric Manfuacturing Co	Oct. 3, 1938	Oct. 17, 1938	(1)
Illinois Electric Porcelain Co	Mar. 9, 1939	Mar. 28, 1939	(1)
Illinois Tool Works	May 8, 1939	May 9, 1939	(1)
Illinois Zinc Co	Aug. 15, 1938	Aug. 29, 1938	(1)
Indiana & Michigan Electric Co	Nov. 28, 1938	Dec. 9, 1938	(1)
Indiana Ox Fibre Brush Co	(5)	(5)	[5] Sept. 19, 1938
Inman Poulsen Lumber Co	(5)	(5)	[5] Apr. 11, 1939
Inter-Allied Slipper Co., Inc	May 22, 1939	May 23, 1939	(1)
Interlake Iron Corporation	May 1, 1939	June 30, 1939	(1)
International Furniture Co	Aug. 29, 1938	Sept. 14, 1938	(1)
Do	do	do	[3] May 26, 1939
International Harvester Co	June 22, 1939	(6)	(6)
Do	do	(6)	(6)
Do	do	(6)	(6)
International Harvester Co., Farmall Works	do	(6)	(6)
International Harvester Co	do	(6)	(6)
Do	do	(6)	(6)
Interstate Fireproof Storage Co	July 5, 1938	July 5, 1938	(1)
Irving Tanning Co., and Hartland Tanning Co	Jan. 30, 1939	Feb. 11, 1939	(1)
Isle of Dreams Broadcasting Corporation	May 11, 1939	May 15, 1939	[3] June 26, 1939
Israel G. Cutler et al., and Continental Upholstered Furniture and Medford Upholsterers, Inc	Feb. 9, 1939	Feb. 20, 1939	(1)
I. Youlin & Co	Aug. 20, 1938	Aug. 25, 1938	(1)
J. A. Boswell Co	June 12, 1939	June 16, 1939	(1)
Jacobs Manufacturing Co	Sept. 8, 1938	Sept. 8, 1938	[3] Feb. 10, 1939
Jacobs Stove Manufacturing Co	do	do	[3] Do.

See footnotes at end of table, p. 175.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Jacob Finkelstein & Sons	(5)	(5)	[5] Sept. 9, 1938
Jamestown Metal Equipment Co. et al	Oct. 24, 1938	Oct. 27, 1938	(1)
John Morrell & Co	Apr. 13, 1939	Apr. 16, 1939	(10)
J. A. Thomas, proprietor, Thomas Trucking & Freight Forwarding	Jan. 21, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
J. Dunitz, Gloray Knitting Mills	Mar. 27, 1939	Mar. 31, 1939	(1)
J. E. Pearce Contracting & Stevedoring Co	Nov. 21, 1938	Mar. 2, 1939	(1)
J. Greenbaum Tanning Co	Jan. 9, 1939	Jan. 9, 1939	(1)
Do	Mar. 30, 1939	May 5, 1939	(1)
John Grieves Sons	Oct. 10, 1938	Oct. 10, 1938	(1)
Johns-Manville Corporation	Aug. 4, 1938	Aug. 24, 1938	(1) 4
John S. Roebling's Sons Co	July 7, 1938	July 14, 1938	(1)
Johnston Pump Co	May 11, 1939	May 16, 1939	(1)
Jones Lumber Co	(5)	(5)	[5] Apr. 11, 1939
Joseph Freeman Shoe Co., Inc	(5)	(5)	[5] May 5, 1939
J. S. Popper, Inc	Jan. 3, 1939	Jan. 3, 1939	(1)
Keystone Frame & Manufacturing Co	May 22, 1939	May 26, 1939	(1)
Klauer Manufacturing Co	Feb. 2, 1939	Feb. 8, 1939	(1)
Koch Refrigerator Co	(5)	(5)	[5] Nov. 21, 1938
Kramer & Uchitelle	May 22, 1939	June 7, 1939	(1)
LaFavorite Rubber Co	Jan. 26, 1939	Feb. 3, 1939	(1)
LaParee Undergarment Co	Dec. 20, 1938	Dec. 22, 1938	(1)
Do	do	do	(1)
LaSalle Hat Co	Sept. 15, 1938	Oct. 1, 1938	[3] Nov. 26, 1938
Lebanon Paper Box Co	(5)	(5)	[5] Apr. 27, 1939
Lennox Furnace Co	Feb. 20, 1939	Mar. 2, 1939	(5)
Letellier Transfer Co., Inc	July 29, 1938	Aug. 6, 1938	[3] Feb. 11, 1939
Liberty Dry Docks & Repair	July 12, 1938	July 12, 1938	(1)
Limestone Mills	Dec. 13, 1938	Jan. 7, 1939	(1)
Litwin & Sons	July 7, 1938	July 13, 1938	(1)
Loew's, Inc	Aug. 29, 1938	Oct. 6, 1938	(7)
Los Angeles Drug Co	Feb. 1, 1939	Feb. 4, 1939	(7)
Los Angeles Spring Bed Co	June 15, 1939	June 19, 1939	(1)
Louis Shoe Co	Feb. 27, 1939	Mar. 10, 1939	(1)
Lucas Bros	(5)	(5)	[5] Nov. 19, 1938
Luxuray, Inc	Aug. 18, 1938	Aug. 18, 1938	(1)
McAlbert Oil Co., Inc	Sept. 22, 1938	Sept. 27, 1938	(1)
McKesson & Robbins, Inc	Sept. 19, 1938	Sept. 22, 1938	(1)
Do	do	do	(1)
McQuay-Norris Manufacturing Co	Mar. 9, 1939	Mar. 11, 1939	(1)
Magnolia Petroleum Co	Dec. 12, 1938	Dec. 20, 1938	(1)
Majestic Dress Co. and Boston Maid Dress Co	Jan. 23, 1939	Jan. 30, 1939	(4)
Mall Tool Co	May 25, 1939	June 5, 1939	(1)
Malone Aluminum & Bronze Powder Co	Oct. 3, 1938	Oct. 14, 1938	(1)
Maloney Trucking & Storage Co	July 29, 1938	Aug. 6, 1938 [2]	[3] Feb. 11, 1939
Mandan Radio Association	May 18, 1939	May 19, 1939	(1)
Mandell Chevrolet Co., Inc	(7)	(7)	(7)
Marlin Rockwell Corporation	Aug. 25, 1938	Aug. 30, 1938	(1)
Marshall Field & Co	Mar. 2, 1939	Mar. 8, 1939	[3] Apr. 20, 1939
Martell Mills Corporation	Feb. 2, 1939	Feb. 3, 1939	(1)
Maryland Color Printing Co	(5)	(5)	[5] Nov. 19, 1938
Massachusetts Trawling Co	Mar. 23, 1939	Mar. 24, 1939	(1)
Max Ams, Inc	Dec. 19, 1938	Dec. 19, 1938	(7)
Mayer Handbag Co	Aug. 4, 1938	Aug 15, 1938	(1)
Meadville Malleable Iron Co	(5)	(5)	[5] Nov. 14, 1938
Medusa Portland Cement Co	Mar. 17, 1939	Mar. 29, 1939	(1)
Mercer Textile Co	Aug. 1, 1938	Aug. 3, 1938	(1)
Metal Door & Trim Co	(5)	(5)	[5] Apr. 27, 1939
Metal Hose & Tubing Co	Jan. 23, 1939	Feb. 15, 1939	(1)
Meyer & Thalheimer	(5)	(5)	[5] Nov. 19, 1938
Mid Continent Petroleum Co	May1 8, 1939	(6)	(6)
Milam Manufacturing Co	Aug. 8, 1938	Aug. 10, 1938	[3] Sept. 20, 193
Milan Shirt Manufacturing Co	Apr. 24, 1939	May 3, 1939	(1)
Miller Abattoir Co	Nov. 17, 1938	Nov. 18, 1938	(1)
Mine B. Coal Co., a corporation	(5)	(5)	[5] Sept. 19, 1938
Model Blouse Co	Nov. 3, 1938	Nov. 22, 1938	(1)
Monarch Mills, Inc	July 25, 1938	Jan. 19, 1939	(1)
Monmouth Country Publishing Co	(5)	(5)	[5] July 29, 1938
Monte Glove Co	Apr. 6, 1939	Apr. 10, 1939	(1)
Montgomery Ward & Co	July 21, 1938	July 28, 1938	(1)
Monticello Manufacturing Co	July 20, 1938	July 27, 1938	(1)
Mooremach Gulf Lines, Inc	Mar. 20, 1939	(5)	(6)
Moore-Lowry Flour Mill Co	July 7, 1935	July 9, 1938	(1)
Motor Specialties Co	Apr. 10, 1939	Apr. 14, 1939	(1)
Muncie Gear Co., succeeded by Muncie Gear Works, Inc	(5)	(5)	[5] Dec. 13, 1938
Murray Hat Co	July 14, 1938	July 27, 1938	(1)
Murray Shoe Co	(5)	(5)	[5] Jan. 11, 1939
Narragansett Plush, Inc	Aug. 1, 1938	Aug. 10, 1938	(1)
Nash-Kelvinator Corporation	do	Aug. 8, 1938	(1)

See footnotes at end of table, p. 175.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
National Advertising Sales Aid Products	Oct. 27, 1938	Nov. 2, 1938	(1)
National Battery Co	May 1, 1939	May 12, 1939	(1)
National Cash Register Co	Apr. 24, 1939	(6)	(6)
National City Lines et al	Mar. 13 1939	Mar. 15, 1939	(1)
National Electric Products Corporation	Oct. 25, 1938	Oct. 25, 1938	(1)
National Herald, Inc	Sept. 26, 1938	Sept. 27, 1938	[3] Nov. 16, 1938
National Mattress Co., Terre Haute National Mattress Co., Specialty Mattress Co	(5)	(5)	[4] July 9, 1938
National Motor Rebuilding Corporation	Mar. 13, 1939	Mar. 20, 1939	(1)
National Pneumatic Co	Dec. 21, 1938	Dec. 29, 1938	[3] Jan. 30, 1939
National Tea Co	(5)	(5)	[3] Oct. 12, 1938
Newark Morning Ledger Co	July 22, 1938	Sept. 16, 1938	(1)
Newberry Lumber & Chemical Co	Nov. 7, 1938	Nov. 12, 1938	(1)
New Era Die Co	Mar. 23, 1939	Mar. 24, 1939	(1)
Neuhoff Packing Co	Oct. 4, 1938	Oct. 11, 1938	(1)
New York Times Co	Jan. 3, 1939	(6)	(6)
Niagara Box Factory Inc., and Eagle Pencil Co	July 18, 1938	Sept. 10, 1939	(7)
North Electric Manufacturing Co	Oct. 24, 1938	Nov. 3, 1938	(1)
Nutrena Mills, Inc	July 14, 1938	July 16, 1938	[3] May 10, 1939
Oberman Co., Inc	Jan. 23, 1939	Feb. 4, 1939	[3] Mar. 20, 1939
Odanah Iron Co. et al	June 29, 1939	(6)	(6)
O'Hara Bros. Co., Inc	Mar. 23, 1939	Mar. 24, 1939	(1)
Ohio Greyhound Lines, Inc	Jan. 23, 1939	Jan. 27, 1939	(1)
Ohio Match Co	Mar. 30, 1939	Mar. 30, 1939	(1)
Old Straight Creek Coal Co	July 14, 1938	July 19, 1938	(1)
Omaha & Council Bluffs St. Ry. Co	July 11, 1938	Aug. 18, 1938	(1)
Oneita Knitting Mills	(5)	(5)	[4] Dec. 13, 1938
Pacific Freight Lines	Aug. 11, 1938	Aug. 27, 1938	(7)
Pacific Gas & Electric Co	Aug. 29, 1938	Sept. 14, 1938	June 14, 1939
Pacific Gas Radiator Co	Jan. 26, 1939	Feb. 16, 1939	(1)
Pacific Greyhound Lines	June 29, 1939	June 30, 1939	(1)
Paramount Broadcasting Co	Sept. 8, 1938	Sept. 9, 1938	[3] June 3, 1939
Paramount Pictures, Inc	Aug. 29, 1938	Oct. 6, 1938	(7)
Paul A. Reichelt Co	Aug. 15, 1938	Aug. 16, 1938	(1)
Paul Siewers & McKay	July 5, 1938	July 7, 1938	(1)
P. Ballantine & Sons	Apr. 24, 1939	May 11, 1939	(1)
Peter Pan Co., Inc	Nov. 17, 1938	Nov. 17, 1938	(1)
Peter Pan Co	May 22, 1939	May 23, 1939	(1)
Peerless White Line Co	Nov. 7, 1938	Nov. 12, 1938	[3] Jan. 3, 1939
Perfection Steel Body Co	July 1, 1938	July 6, 1938	(1)
Phelps Dodge Corporation	June 1, 1939	June 8, 1939	(1)
Phelps Dodge Corporation, United Verde Branch	Dec. 8, 1938	Dec. 9, 1938	(1)
Phillips Petroleum Co	Aug. 8, 1938	Aug. 12, 1938	(1)
Do	Aug. 11, 1938	Aug. 18, 1938	(1)
Pickands, Mather & Co., Zenith mine	June 29, 1939	(6)	(6)
Piedmont Shirt Co	Feb. 20, 1939	Feb. 23, 1939	[3] June 2, 1939
Pioneer Baking Co	Jan. 16, 1939	Jan. 18, 1939	(6)
Pittsburgh Metallurgical Co	Sept. 13, 1938	Sept. 13, 1938	(1)
Pittsburgh Plate Glass Co	Mar. 6, 1939	Mar. 6, 1939	(1)
Pittsburgh Plate Glass Co. No. 9	July 18, 1938	July 22, 1938	[3] Sept. 22, 1938
Portland Lumber Mills Co	(5)	(5)	[4] Apr. 11, 1939
Premier Furnace Co	May 25, 1939	June 3, 1939	(1)
Princess Garment Co., Fashion Frocks, Inc., and Harford Frocks, Inc	Apr. 13, 1939	Apr. 29, 1939	(1)
Producers Produce Co	July 14, 1938	July 18, 1938	(1)
Pullman Standard Car Manufacturing Co	Mar. 9, 1939	Apr. 5, 1939	(1)
Pure Oil Co	July 18, 1938	July 25, 1938	(7)
Radcliff Motor Co	Oct. 27, 1938	Nov. 7, 1938	[3] Dec. 16, 1938
Radio Condenser Co	June 29, 1939	(6)	(6)
R. Burke, doing business as Vaughan Transfer Co	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
R. C. Can Co	(5)	(5)	[4] Apr. 25, 1939
Rebecca Fabacher, Inc., under the trade name of Fabacher Drayage Co	Jan. 12, 1939	Jan. 19, 1939	(7)
Red River Lumber Co	Oct. 13, 1938	Oct. 25, 1938	[3] Dec. 13, 1938
Reed Bros. Inc	Aug. 8, 1938	Aug. 10, 1938	[3] Sept. 20 1938
Republic Rubber Co. (Lee Rubber & Tire)	May 22, 1939	June 8, 1939	(1)
Republic Steel Corporation	May 25, 1939	(6)	(6)
Do	May 2, 1939	(6)	(6)
Resnick Cleaners	Aug. 4, 1938	Aug. 9, 1938	(1)
Revere Copper & Brass Co	July 11, 1938	July 15, 1938	(1)
Rex Textile Co., Inc	June 26, 1939	(6)	(6)
Renold Wine Co	May 15, 1939	May 24, 1939	(1)
R. H. H. Steel Laundry	Nov. 17, 1938	Dec. 5, 1938	(1)
Richard Bros. Corporation	Mar. 7, 1939	Mar. 7, 1939	(1)
Richland Co-operative Creamery Co	(5)	(5)	[4] July 30, 1938
Ritholz Optical Co	Sept. 29, 1938	(6)	(6)
Riverside Manufacturing Co	Aug. 8, 1938	Aug. 16, 1938	(1)
Riverside Transfer Co., Inc	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
R. K. O. Radio Pictures	Aug. 29, 1938	Oct. 6, 1938	(7)

See footnotes at end of table, p. 175.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Race Bros.	(5)	(5)	[5] Apr. 27, 1939
Roche Harbor Lime & Cement Co.	(5)	(5)	[5] Nov. 21, 1938
Rockford Mitten & Hosiery Co.	July 25, 1938	July 27, 1938	(1)
Roseland Manufacturing Co., Inc.	Aug. 30, 1938	Aug. 31, 1938	(7)
Rushmore Paper Co.	Jan. 26, 1939	Feb. 1, 1939	(1)
Rust Parker Co.	Apr. 10, 1939	Apr. 12, 1939	(1)
Ryan Coal Co.	Aug. 11, 1938	Aug. 12, 1938	(1)
Sagamore Metal Goods, Inc.	Mar. 27, 1939	Mar. 31, 1939	[3] May 8, 1939
Salt Lake Transfer Co.	July 8, 1938	July 12, 1938	(1)
Samuel Goldwyn, Inc., Ltd.	Aug. 29, 1938	Oct. 6, 1938	(7)
Samuel Stamping & Enameling Co.	May 29, 1939	May 30, 1939	(1)
S. Blechman & Sons, Inc.	Sept. 19, 1938	Sept. 21, 1938	(1)
Schieber Hat Co.	Apr. 6, 1939	May 2, 1939	(1)
Schierbrock Motors	Nov. 21, 1938	Nov. 21, 1938	(1)
Schneidereith & Sons	(5)	(5)	[5] Nov. 19, 1938
Schreiber Milling & Grain Co.	(5)	(5)	[5] Apr. 27, 1939
Scottdale Mills	Nov 7, 1938	Jan. 26, 1939	(1)
Se-Ling Hosiery Mills, Inc.	July 11, 1938	July 14, 1938	(1)
Selznick International Pictures, Inc.	Aug. 29, 1938	Oct. 6, 1938	(7)
Service Drayage Co., Inc.	July 29, 1938	Aug. 6, 1938	[3] Feb. 11, 1939
Shepard Steamship Co.	Jan. 12, 1939	Jan. 12, 1939	(7)
Shewan Jones Winery Co.	Jan. 26, 1939	Feb. 3, 1939	(1)
Sierra Madre Lamanda Citrus Association	Oct. 4, 1938	Oct. 10, 1938	(1)
Sinclair Refining Co.	Feb. 23, 1939	Feb. 28, 1939	(1)
Singer Manufacturing Co.	May 4, 1939	May 9, 1939	(1)
S. Jackson & Son, Inc.	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939
Solvay Process Co.	Sept. 15, 1938	Oct. 7, 1938	(1)
Somersworth Shoe Co.	(5)	(5)	[5] May 3, 1939
Sorg Paper Co.	Mar. 6, 1939	Apr. 8, 1939	(1)
Southern Cotton Oil Co.	June 26, 1939	June 28, 1939	(1)
Southern Manufacturing. Co.	(5)	(5)	[5] June 15, 1939
Southern Steamship Co.	Dec. 5, 1938	Jan. 9, 1939	(1)
Southern Texas Coaches et al.	Apr. 20, 1939	May 6, 1939	(1)
Sparks-Withington Co.	Sept. 22, 1938	Sept. 28, 1938	(1)
Sprague Specialties Co.	Sept. 16, 1938	Sept. 22, 1938	(1)
Springfield Photo Mount Co.	(5)	(5)	[5] June 2, 1939
Standard Hat Co.	Apr. 27, 1939	Apr. 28, 1939	(1)
Standard Rendering Co.	Sept. 15, 1938	Sept. 16, 1938	[3] Nov. 16, 1938
Star & Crescent Boat Co.	Jan. 5, 1939	Jan. 13, 1939	(1)
Ste. Genevieve Lime & Quarry Co.	Nov. 7, 1938	Nov. 12, 1938	[3] Jan. 3, 1939
Stoddard Lumber Co.	Oct. 17, 1938	Oct. 28, 1938	[4] May 16, 1939
Summers Printing Co.	(5)	(5)	[5] Nov. 19, 1938
Sunnyvale Dress Co.	(5)	(5)	[5] Dec. 9, 1938
Sunday Lake Iron Co. et al.	June 29, 1939	(6)	(6)
Superfine Slipper Co.	July 25, 1938	July 26, 1938	(1)
Superior Cabinet Corporation et al.	June 5, 1939	June 15, 1939	(1)
Superior Reed & Rattan Furniture Co.	Jan. 3, 1939	Jan. 10, 1939	(1)
Superior Table Novelty Corporation	June 5, 1939	June 15, 1939	(1)
Supplee-Wills-Jones-Milk Co.	(5)	(5)	[5] Mar. 7, 1939
Swift & Co.	Aug. 8, 1938	Aug. 11, 1938	(1)
Swift Packing Co.	Oct. 17, 1938	Nov. 11, 1938	(1)
Taylor Milling Corporation	Mar. 27, 1939	Apr. 15, 1939	(1)
Tennessee Electric Power Co.	Nov. 7, 1938	Nov. 10, 1938	(1)
Terminal Manufacturing Co.	Feb. 27, 1939	Mar. 8, 1939	(1)
The Afto-American Co.	(5)	(5)	[5] Mar. 16, 1939
The Atlas Underwear Co.	(5)	(5)	[5] Jan. 18, 1939
The Bloomfield Manufacturing Co.	June 19, 1939	June 22, 1939	(1)
The Calco Chemical Co.	Oct. 17, 1938	Feb. 7, 1939	(7)
The Celluloid Corporation of America	Jan. 23, 1939	Jan. 23, 1939	(1)
The Gulf Refining Co.	May 18, 1939	June 9, 1939	(1)
The Maytag Co.	July 18, 1938	Oct. 19, 1938	(1)
The Mode Novelty Co.	(5)	(5)	Apr. 27, 1939
The Pure Oil Co.	Feb. 3, 1939	Feb. 15, 1939	(1)
The Sanitary Market	Mar. 27, 1939	Mar. 38, 1939	(5)
The Texas Co.	Sept. 12, 1938	Nov. 29, 1938	(1)
Do.	Feb. 3, 1939	Feb. 15, 1939	(1)
The Valley Camp Coal Co.	Feb. 9, 1939	Feb. 17, 1939	(1)
The Sanitary Market	Mar. 27, 1939	Mar. 28, 1939	(5)
Thompson Products, Inc.	Apr. 3, 1939	Apr. 6, 1939	(1)
Thomsen-Ellis-Hutton Co.	(5)	(5)	[5] Nov. 19, 1938
Trawler Maris Stella, Inc.	Oct. 31, 1938	Nov. 5, 1938	Apr. 21, 1939
Tupelo Garment Co.	Aug. 8, 1938	Aug. 10, 1938	[3] Sept. 20, 1938
20th Century-Fox Film Corporation	Aug. 29 1938	Oct. 6, 1938	(7)
Union Forging Co.	May 15, 1939	May 23, 1939	(1)
United Container Co.	Mar 9, 1939	Mar. 15, 1939	[3] Apr. 27, 1939
United Dredging Co.	May 25, 1939	(6)	(6)
Universal Engraving & Colorplate Co.	Mar. 9, 1939	Mar. 18, 1939	(1)
Universal Pictures Co., Inc.	Aug. 29, 1938	Oct. 6, 1938	(7)
Upland Citrus Association	Nov. 29, 1938	Dec. 28, 1938	(1)

See footnotes at end of table, p. 175.

Unfair labor practice cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
[1]U. S. Brass Turning Co., Inc	Feb. 14, 1939	Feb. 14, 1939	[7]
[1]U. S Pipe & Foundry Co	Feb. 21, 1939	Feb. 22, 1939	[1]
[1]Utah Copper Co	June 8, 1939	June 9, 1939	[1]
Valley Mould & Iron Corporation	May 1, 1939	May 3, 1939	[1]
Vaughn Furniture Co., Inc	Sept. 15, 1938	Sept. 24, 1938	[3] Nov. 28, 1938
Viking Pump Co	Dec. 5, 1938	Dec. 5, 1938	[11]
Vincennes Steel Corporation	Dec. 1, 1938	Dec. 7, 1938	[1]
V. La Rosa & Sons, Inc	July 8, 1938	July 25, 1938	[3] Dec. 6, 1938
Volupte, Inc	[5]	[5]	[5] Mar. 8, 1939
Walter Wanger Products, Inc	Aug. 29, 1938	Oct. 6, 1938	[7]
Warner Brothers Pictures, Inc	do	do	[7]
Warren Textile Print Works	July 5, 1938	July 6, 1938	[1]
Washington Tin Plate Co	Aug. 11, 1938	Aug. 12, 1938	[1]
Watkins Printing Co	[5]	[5]	[1] Nov. 19, 1938
Waverly Press, Inc	[5]	[5]	[5] Do.
West Coast Wholesale Drug Co	Sept. 19, 1938	Sept. 22, 1938	[7]
West Kentucky Coal Co	May 22, 1939	May 23, 1939	[1]
Do	Sept. 15, 1938	Sept. 16, 1938	[1]
West Texas Utilities Co	July 25, 1938	Aug. 16, 1938	[1]
White Swan Laundry	May 18, 1939	May 27, 1939	[1]
Whittier Mills Co. and Silver Lake Co	Nov. 7, 1938	Jan. 26, 1939	[1]
Wickwire Bros. Inc	Aug. 1, 1938	Aug. 12, 1938	[1]
Williams Meat Co	[5]	[5]	[4] May 8, 1939
Wilson & Co	Nov. 28, 1938	Nov. 30, 1938	[1]
Do	Oct. 31, 1938	Nov. 2, 1938	[1]
Wilson H. Lee Co	May 15, 1939	June 2, 1939	[1]
Wilson Line Inc	Oct. 21, 1938	Dec. 17, 1938	[1]
Do	do	do	[1]
Windsor Manufacturing Co	Mar. 9, 1939	Mar. 13, 1939	[1]
Woodside Cotton Mills Co	June 8, 1939	June 9, 1939	[1]
Woodward & Lothrop	Oct. 3, 1938	Oct. 3, 1938	[3] Nov. 4, 1938
Yellow Cab & Baggage Co	Oct. 6, 1938	Oct. 17, 1938	[1]
Youngstown Mines Corporation	June 29, 1939	[6]	[6]
Youngstown Mines Corporation et al	do	[6]	[6]
Young's Transfer, Inc	Jan. 12, 1939	Jan. 19, 1939	[3] Feb. 11, 1939

[1] Awaiting decision.
[2] Additional hearing on Oct. 27, 1938, and Oct. 28, 1938.
[3] Decision issued by stipulation after hearing.
[4] Case closed by compliance with intermediate report.
[5] Decision issued by stipulation before hearing.
[6] Resumed hearing on May 15, 1939, which is still in progress.
[7] Settled after hearing.
[8] Case closed by intermediate report dismissing complaint.
[9] Withdrawn after hearing.
[10] Dismissed after hearing.
[11] Second hearing began on Nov. 21, 1938, and is still in progress.

LIST OF CASES HEARD AND DECISIONS RENDERED

Following is a list of cases heard prior to the fiscal year 1938–39, in which action was taken during the fiscal year 1938–39:

Representation cases

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Acme Air Appliance Co	Mar. 10, 1938	Mar. 15, 1938	[1]
Admiar Rubber Co	June 15, 1938	June 18, 1938	Oct. 18, 1938
Alfred LeBlanc, Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
A. K. Miller Co., Inc	do	do	Do.
Aluminum Co. of America	Mar. 18, 1938	Mar. 19, 1938	July 8, 1938
Aluminum Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
American Baltic Chartering Shipbuilding	do	do	Do.
American Enamel Magnet Wire Co	June 30, 1938	Nov. 14, 1938	Jan. 17, 1939
Do	do	do	Do.
American Fruit Growers, Inc	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
American Petroleum Co	Dec. 9, 1937	Dec. 9, 1937	May 4, 1939
American South African Line, Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
American Tankers Corporation	June 21, 1937	June 21, 1937	Aug. 5, 1938
Anchor Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Apache Distributors	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
A. Arena & Arena Norton	do[1]	Nov. 26, 1938[2]	Do.
Arizona Vegetable Distributors	do	Mar. 30, 1938	Do.
Armour & Co	June 16, 1938	June 16, 1938	Nov. 26, 1938
Do	Jan. 20, 1938	Apr. 11, 1938	Sept. 15, 1938
Do	Feb. 7, 1938	Feb. 10, 1938	Nov. 29, 1938
Do	June 27, 1938	June 30, 1939	Aug. 29, 1938
Atlantic Gulf Stevedoring, Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Babcock & Wilcox Co	June 16, 1938	June 16, 1938	July 22, 1938
Bethlehem Shipbuilding Corporation	Mar. 21, 1938	June 3, 1938	Feb. 10, 1939
Do	do	do	Do.
Bethlehem Steel Corporation and Bethlehem Steel Co	Sept. 8, 1937	July 15, 1938	[3]
B. F. Sturtevant Co	May 19, 1938	May 24, 1938	Aug. 6, 1938
B. G. Hoodley Quarries, Inc	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Bloedel-Donavan Lumber Mills	Apr. 4, 1938	Apr. 7, 1938	July 12, 1938
Bloomington Limestone Corporation	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Boston Daily Record	Apr. 5, 1938	Apr. 6, 1938	July 29, 1938
Boston Evening American and Sunday Advertiser	do	do	Do.
Breeze Corporation	Mar. 17, 1938	Mar. 23, 1938	Jan. 16, 1939
Do	do	do	Do.
Bryant-Hagen	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Burlington Dyeing & Finishing Co	Mar. 17, 1938	Mar. 19, 1938	Dec. 1, 1938
Burrel Collins	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Byco Distributors, Inc	do	do	do
California Woodturning Co	June 9, 1938	June 16, 1938	Sept. 9, 1938
Carl Furst Stove	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Carolina Marble & Granite Works	Dec. 15, 1937	Dec. 16, 1937	Feb. 14, 1939
Centre Brass & Enterprise Novelty Co	Jan. 7, 1938	Jan. 13, 1938	Jan. 1, 1939
Century Woven Label Co	Mar. 28, 1938	Apr. 9, 1938	July 28, 1938
Chas. Freedman	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Chicago Apparatus Co	Dec. 13, 1937	Dec. 16, 1937	May 17, 1939
Clark Equipment Co	Mar. 1, 1938	Mar. 16, 1938	May 31, 1939
Clinton Garment Co	May 26, 1938	May 26, 1938	Aug. 2, 1938
Columbia Broadcasting System, Inc	do	do	July 22, 1938
Connor Lumber & Land Co	June 9, 1938	July 29, 1938	Feb. 28, 1939
Coastal Freight Handlers, Inc	June 30, 1939	July 5, 1938	Sept. 29, 1938
Crosset Lumber Co	July 26, 1937	Aug. 7, 1937	July 21, 1938
Cudahy Packing Co	May 12, 1938	June 29, 1938	[3]
Cupples Match Co	Nov. 29, 1937	Dec. 14, 1937	Dec. 6, 1938
Do	do	do	Do.
Davis Packing Co	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Delta Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Donaldson Atlantic Lines	do	do	Do.
Eagle Pencil Co	Oct. 1, 1937	Dec. 29, 1937	[3]
Eagle Picher Mining & Smelting Co	June 2, 1938	June 3, 1938	Sept. 2, 1938
East Gulf Stevedoring Co., Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938

See footnotes at end of table, p. 179.

Representation cases—Continued

Name of case	Date hearing held		Date decisio issued
	Date opened	Date closed	
Eastern States Petroleum Co., Inc.	May 2, 1938	June 28, 1938	[2]
Eaton Fruit Co.	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
E. G. Smith	do	do	Do.
Electric Auto Lite Co.	Mar. 7, 1938	Mar. 18, 1938	Oct. 11, 1938
Elliott Bay Mills Co.	do	June 2, 1938	Aug. 1, 1938
El Paso Electric Co.	Sept. 14, 1937	Sept. 17, 1937	June 12, 1939
Empire Furniture Co.	Nov. 4, 1937	Nov. 6, 1937	Jan. 1, 1939
Empire Stove Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
E. S. Binnings	June 20, 1938	July 5, 1938	Sept. 29, 1938
Farmers Distributing Co.	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Ford Motor Co.	June 20, 1938	July 9, 1938	[2]
Fred Hilvert Co.	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
French Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Furniture Guild of California	June 9, 1938	June 16, 1938	Aug. 8, 1938
Gates Rubber Co.	Mar. 28, 1938	Mar. 29, 1938	July 14, 1938
Do	do	do	Do.
George H. Kent & Sons, Inc.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Godchaux Sugars, Inc.	Jan. 24, 1938	Feb. 5, 1938	Apr. 29, 1939
Gowanus Towing Co.	Mar. 14, 1938	Mar. 15, 1938	Aug. 5, 1938
Grace Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Greer Steel Co.	May 19, 1938	May 20, 1938	[2]
Greiss-Pfleger Tanning Co.	Nov. 9, 1937	Dec. 6, 1937	[5]
Gulf Pacific Lines, Ltd.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Gulf Ports Service Corporation	June 30, 1938	do	Sept. 9, 1938
Gulf Shipping Co.	June 20, 1938	do	Sept. 29, 1938
Hamburg-American Line-North German Line	do	do	Do.
Hanson-Whitney Machine Co.	Jan. 4, 1938	Jan. 5, 1938	July 8, 1938
Harnischfeger Corporation	Aug. 12, 1937	Sept. 2, 1937	Nov. 8, 1938
Harter Corporation	Nov. 1, 1937	Nov. 3, 1937	July 19, 1938
Heltonville Limestone Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Highland Park Manufacturing Co.	Dec. 9, 1937	Dec. 11, 1937	May 26, 1939
Hoodley Bros. Stove Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Holland American Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Hollywood Citizen News	Mar. 7, 1938	Mar. 28, 1938	Sept. 1, 1938
H. Margolin & Co., Inc.	Nov. 12, 1937	Nov. 30, 1937	Nov. 14, 1938
Horace G. Prettyman and Arthur J. Wiltse, doing business as the Ann Arbor Press	May 2, 1938	May 12, 1938	May 3, 1939
Hudson Motor Car Co.	June 27, 1938	June 30, 1938	Sept. 14, 1938
Hudson-Terraplane Sales Corporation	May 25, 1938	May 25, 1938	July 5, 1938
Hunter Bros. Stove Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Ideal Novelty & Toy Co., Inc.	June 15, 1938	June 18, 1938	Oct. 18, 1938
Independent Limestone Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Indiana Limestone Corporation	do	do	Do.
Indiana Railroad and Bowman Elder	Nov. 8, 1937	Nov. 9, 1937	[4] Do.
Ingalls Stove Co.	Mar. 10, 1938	Mar. 12, 1938	Do.
Interstate Granite Corporation	Dec. 13, 1937	Dec. 15, 1937	Mar. 9, 1939
Isthmian Steamship Co.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Jackson Daily News	Dec. 9, 1937	Dec. 10, 1937	Oct. 10, 1938
John B. Honor & Co., Inc.	June 20, 1938	July 5, 1938	Sept. 29, 1938
John Jacobs	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Journal American	June 22, 1938	July 1, 1938	Dec. 5, 1938
J. P. Florio & Co.	June 20, 1938	July 5, 1938	Sept. 29, 1938
K. C. Power & Light	Sept. 24, 1937	Sept. 25, 1937	May 31, 1939
Kimberly-Clark Corporation	June 20, 1938	June 20, 1938	Nov. 29, 1938
Lloyd Brasilero	do	July 5, 1938	Sept. 29, 1938
Lone Star Bag & Bagging Co.	Aug. 26, 1937	Sept. 13, 1937	July 13, 1938
Lucerne Valley Engineering Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Luckenbach Steamship Co. and Luckenbach Gulf Steamship Co.	Feb. 7, 1938	Feb. 8, 1938	May 27, 1939
Luckenbach Gulf Steamship Co., Inc.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Lykes Bros. Ripley Steamship Co.	do	do	Do.
McKaig & Hatch, Inc.	Dec. 2, 1937	Dec. 10, 1937	Dec. 3, 1938
Mann Edge Tool Co.	June 9, 1938	June 9, 1938	Aug. 2, 1938
Monan Stone Co.	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Merchants Transfer & Storage Co.	Apr. 25, 1938	Apr. 25, 1938	[3]
Metropolitan Device Corporation	June 3, 1938	June 3, 1938	July 28, 1938
Metropolitan Engineering Co. & Metropolitan Device Corporation	do	do	Do.
Metropolitan Stevedoring Co., Inc.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Micamold Radio Corporation	June 24, 1938	June 24, 1938	[1]
M. K. O. Coach Lines	Sept. 7, 1937	Oct. 1, 1937	Nov. 2, 1938
Miller-Johns	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Mississippi Shipping Co.	June 20, 1938	July 5, 1938	Sept. 29, 1938
Missouri, Kansas & Oklahoma Coach Lines	Sept. 7, 1937	Oct. 1, 1937	Nov. 2, 1938
M. O. Best	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Model Blouse Co.	May 19, 1938	May 23, 1938	July 30, 1938
Mooremack Gulf Lines, Inc.	June 30, 1938	July 5, 1938	Sept. 29, 1938
Morgan Packing Co. (teamsters)	Oct. 7, 1937	Oct. 16, 1937	Sept. 16, 1938
Morgan Packing Co. (pressmen)	do	do	Do.

See footnotes at end of table, p. 179.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Munson Steamship Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Murray Shipping Co	do	do	Do.
Newark Rivet Works	Nov. 26, 1937	Jan. 18, 1938	Oct. 27, 1938
New England Newspaper Publishing Co	Apr. 5, 1938	Apr. 6, 1938	July 29, 1938
New Orleans Steamship Association	June 24, 1938	July 5, 1938	Sept. 29, 1938
New Orleans Stevedoring Co	June 20, 1938	do	Do.
New York Evening Journal, Inc	Apr. 13, 1938	Apr. 26, 1938	Dec. 5, 1938
New York & Porto Rico Steamship Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Do	Dec. 21, 1937	Dec. 21, 1937	(1)
Niagara Box Factory	Oct. 1, 1937	Dec. 29, 1937	(2)
Nippon Yusen Kaisha Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
North River Coal & Wharf Co	May 2, 1938	May 2, 1938	July 7, 1938
Norton Lilly & Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Oceanic Stevedoring Co. of Louisiana	do	do	Do.
Ordway W. Richard	Apr. 11, 1938	Apr. 11, 1938	(2)
Ourisman Chevrolet Sales Co	Feb. 14, 1938	Feb. 19, 1938	(2)
Pacific Greyhound Lines	June 23, 1938	June 27, 1938	Oct. 29, 1938
Do	do	do	Do.
Padre Vineyard Co	Jan. 3, 1938	Feb. 1, 1938	(2)
Page L'Hote Co., Ltd	June 30, 1938	July 5, 1938	Sept. 29, 1938
Pan-Atlantic Steamship Corporation	do	do	Do.
Panther Panco Rubber Co	Feb. 24, 1938	Mar. 5, 1938	Mar. 23, 1939
Paragon Slipper Co	May 12, 1938	May 13, 1938	July 12, 1938
P. J. Linde (Ritz Distributing Co.)	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Planters Manufacturing Co	Nov. 23, 1937	Dec. 4, 1937	Dec. 20, 1938
Plant Line Stevedoring Co., Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Pulaski Veneer Corporation	Feb. 3, 1938	Feb. 12, 1938	Dec. 3, 1938
Pure Oil Co	Nov. 29, 1937	Dec. 7, 1937	July 11, 1938
Do	Jan. 13, 1938	Jan. 19, 1938	(3)
Quality Furniture Co	June 9, 1938	June 16, 1938	Aug. 8, 1938
R. C. A. Communications, Inc	May 16, 1938	May 20, 1938	Nov. 17, 1938
Do	do	do	Do.
Reading Transportation Co	June 29, 1938	June 30, 1938	Dec. 1, 1938
Reed-Powers Cut Stone Co	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Richard Meyer Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Richman & Samuels, Inc	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Roberte Bros	Dec. 2, 1937	Dec. 28, 1937	Aug. 16, 1938
Ross & Heyn, Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Royal Glass Works Corporation	June 14, 1938	June 14, 1938	Sept. 22, 1938
Ryan Stevedoring Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
S. A. Gerrard	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Salinas Valley Vegetable Exchange	do	do	Do.
Sare-Hoadley Stone Co	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
S. B. Penick & Co	Feb. 7, 1938	Feb. 23, 1938	(2)
Scandinavian-American Line	June 20, 1938	July 5, 1938	Sept. 29, 1938
Seattle Post Intelligencer Department	Mar. 10, 1938	Apr. 1, 1938	Nov. 29, 1938
Shawnee Stone Co	do	Mar. 12, 1938	Dec. 2, 1938
Shelby Shops, Inc	May 16, 1938	May 26, 1938	July 26, 1938
Shell Petroleum Co	Mar. 4, 1938	Mar. 12, 1938	Nov. 12, 1938
Singer Sewing Machine Co	Mar. 28, 1938	Mar. 28, 1938	Aug. 8, 1938
Smith-Thornburg, Inc	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Sorg Paper Co	Mar. 18, 1938	Mar. 18, 1938	July 27, 1938
Southern California Gas Co	June 2, 1938	June 27, 1938	Jan. 14, 1939
Southern Pacific Steamship Lines (Morgan Line)	June 30, 1938	June 30, 1938	Sept. 27, 1938
Southern Stevedoring Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Southport Refinery Co	Dec. 13, 1937	Jan. 13, 1938	Aug. 4, 1938
Spotless Stores, Inc	Dec. 24, 1937	Jan. 6, 1938	(2)
Standard Oil Co. of N. J. (officers)	June 6, 1938	June 6, 1938	Aug. 17, 1938
Standard Oil Co. of N. J. (engineers)	do	do	do.
Standard Oil Co. of N. J. (marine)	June 28, 1938	Aug. 4, 1938	Sept. 15, 1938
Standard Cap & Seal Co	June 16, 1938	June 16, 1938	Dec. 10, 1938
Standard Fruit & Steamship Co	June 30, 1938	July 5, 1938	Sept. 29, 1938
Standard Oil Co of N. J. (marine)	June 6, 1938	June 6, 1938	Aug. 17, 1938
Standard Oil Co. of N. J.	do	do	Do.
Do	June 28, 1938	July 1, 1938	Aug. 13, 1938
Do	June 6, 1938	June 6, 1938	Aug. 17, 1938
Stehli & Co., Inc	Nov. 1, 1937	Dec. 15, 1937	Mar. 30, 1939
Strachan Shipping Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Stanley Fruit Co	Mar. 29, 1938	Mar. 30, 1938	Oct. 7, 1938
Sun Shipbuilding & Dry Dock Co	June 23, 1938	June 24, 1938	(2)
Swayne & Hoyt, Ltd	June 20, 1938	July 5, 1938	Sept. 29, 1938
Swift & Co., Newton Packing	May 10, 1937	May 22, 1937	Jan. 5, 1939
Tampa Inter-Ocean Steamship Co	June 20, 1938	July 5, 1938	Sept. 29, 1938
Terminal Flour Mills Co	Jan. 19, 1938	Feb. 14, 1938	July 18, 1938
Texas Corrugated Box Co	June 23, 1938	June 23, 1938	Sept. 11, 1938
Texas Transport, Terminal Co., Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Texle Stevedoring Co	do	do	Do.
The Indianapolis Times	June 27, 1938	June 28, 1938	Sept. 27, 1938
The Kling Factories	May 13, 1938	May 20, 1938	Sept. 23, 1938

See footnotes at end of table, p. 179.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Tidewater Association Oil Co. (officers)	Jan. 4, 1938	do	Nov. 12, 1938
Tidewater Association Oil Co. (engineers)	do	do	Do.
Tidewater Association Oil Co	do	do	Nov. 13, 1938
Tidewater Association Oil Co. (marine department)	May 19, 1938	do	Nov. 12, 1938
Times Publishing Co	May 2, 1938	May 6, 1938	Sept. 19, 1938
Todd-Johnson Dry Docks, Inc	May 5, 1938	May 13, 1938	Dec. 14, 1938
Tolby Bros	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1938
Tracy-Holmes Fruit Co	do	do	Do.
T. Smith & Son, Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Union Premier Food Stores	June 16, 1938	June 21, 1938	Dec. 8, 1938
Union Tribune Publishing	Nov. 29, 1937	Dec. 8, 1937	Feb. 16, 1939
United Fruit Co	Feb. 9, 1938	Feb. 10, 1938	Nov. 1, 1938
Do	June 30, 1938	July 5, 1938	Sept. 29, 1938
Vesta Underwear Co	June 2, 1938	June 2, 1938	July 19, 1938
Victor Oohlitic Stone Co	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Vogemann-Goudriaan Co., Inc	June 20, 1938	July 5, 1938	Sept. 29, 1938
Vultee Aircraft Division of Aviation Co	Apr. 28, 1938	Apr. 28, 1938	Oct. 5, 1938
Wallis Stone Co	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938
Walworth Co	Mar. 18, 1938	Mar. 19, 1938	Aug. 2, 1938
Ward Baking Co	Oct. 11, 1937	Oct. 12, 1937	July 23, 1938
Waterman Steamship Corporation	June 20, 1938	July 5, 1938	Sept. 29, 1938
Washburn Wire Co	Feb. 15, 1938	Apr. 1, 1938	[5]
Weekly Publications, Inc	May 13, 1938	May 18, 1938	July 5, 1938
Weirton Steel Co	Aug. 16, 1937	Jan. 30, 1939	[2]
West Kentucky Coal Co			Dec. 3, 1938
Western Vegetable Distributors	Mar. 29, 1938	Mar. 30, 1938	Dec. 7, 1918
Wheeling Steel Corporation	May 2, 1938	May 2, 1938	July 6, 1938
White Star Lines	June 20, 1938	July 5, 1938	Sept. 29, 1938
Willys Overland Motors, Inc	June 2, 1938	June 7, 1938	Nov. 17, 1938
Wisconsin Bell Telephone	Feb. 7, 1938	Feb. 22, 1938	Apr. 20, 1939
Do	do	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Woolery Bros. Stone Co	Mar. 10, 1938	Mar. 12, 1938	Dec. 2, 1938

[1] Dismissed after hearing.
[2] Awaiting decision.
[3] Withdrawn after hearing.
[4] Decision of Apr. 4, 1938, vacated on June 8, 1938.
[5] Settled after hearing.
[6] Hearing in progress.
[7] Hearing postponed indefinitely.
[8] Hearing waived by all parties.

LIST OF CASES HEARD AND DECISIONS RENDERED

Following is a list of cases originally heard during the fiscal year 1938–39:

Representation cases

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
A. Arena & Co	Feb. 17, 1939	Feb 21, 1939	June 28, 1939
Acme-Evans Co	Apr. 10, 1939	May 5, 1939	(1)
Acme Transfer	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Aerovox Corporation	Oct. 10, 1938	Oct. 14, 1938	Dec. 14, 1938
A. Fink & Sons Co., Inc	Sept. 1, 1938	Sept. 9, 1938	Oct. 21, 1938
A. & H. Produce Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
A. Krueger Brewing Co	Sept. 6, 1938	Sept. 6, 1938	(2)
Alabama By-Products Corporation	Apr. 13, 1939	Apr. 14, 1939	(1)
Do	do	do	(1)
Alabama Mills	June 5, 1939	June 5, 1939	(1)
Alabama Warehousing Co	July 18, 1938	July 26, 1938	Sept. 28, 1938
Alaska Juneau Gold Mining Co	Sept. 15, 1938	Sept. 15, 1938	Nov. 8, 1938
Albert S. Garguilo	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Alexander Smith & Sons Carpet Co	Jan. 5, 1939	Jan. 6, 1939	(2)
Alex E. Engleman	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Allied Paper Mills, King Division	Oct. 11, 1938	Oct. 12, 1938	May 3, 1939
Alloy Cast Steel Co	Nov. 7, 1938	Nov. 7, 1938	Feb. 8, 1939
Alpena Garment Co	Apr. 20, 1939	Apr. 22, 1939	(1)
Alston Coal Co	Apr. 3, 1939	Apr. 13, 1939	(1)
A. L. Tucker	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Aluminum Co. of America	Sept. 15, 1938	Sept. 15, 1938	Nov. 18, 1938
Do	Aug. 8, 1938	Aug. 12, 1938	Oct. 11, 1938
Do	July 11, 1938	July 11, 1938	Aug. 16, 1938
American Can Co	Jan. 9, 1939	Jan. 9, 1939	(1)
Do	do	do	(1)
American Cyanamid & Chemical Corporation	Jan. 5, 1939	Jan. 6, 1939	Feb. 28, 1939
American Fruit Growers	Feb. 10, 1939	Feb. 21, 1939	June 28, 1939
American Granite Quarries, Inc	July 25, 1938	July 26, 1938	Sept. 21, 1938
American Hair & Felt Co	June 26, 1939	(3)	(4)
American Radiator Co	Oct. 20, 1938	Oct. 22, 1938	Mar. 14, 1939
American Scantic Lines, Inc	Mar. 20, 1939	(5)	(3)
American Tobacco Co	July 28, 1938	July 28, 1938	Oct. 29, 1938
Anderson & Clayton Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Anderson & Middleton Lumber Co	July 7, 1938	July 13, 1938	Dec. 14, 1938
Arazon-Baldwin Cotton Mills	Dec. 12, 1938	Dec. 12, 1938	Jan. 4, 1939
Armour & Co	June 19, 1939	June 27, 1939	(1)
Do	do	do	(1)
Do	do	do	(1)
Do	do	do	(1)
Do	Apr. 6, 1939	Apr. 8, 1939	(1)
Do	Jan. 19, 1939	Jan. 19, 1939	Apr. 3, 1939
Do	Oct. 3, 1938	Oct. 3, 1938	Dec. 30, 1938
Armour & Co. auxiliary plants	May 22, 1939	May 24, 1939	(1)
Armour Packing Co	Mar. 2, 1939	Mar. 8, 1939	(1)
Art Metal Construction Co	Dec. 19, 1938	Dec. 19, 1938	May 27, 1939
A. Sartorius, Inc	Aug. 18, 1938	Aug. 18, 1939	Oct. 4, 1938
Associated Banning Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Associated Motor Carriers of Louisiana, Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Atlanta Woolen Mills	Jan. 9, 1939	Jan. 9, 1939	Feb. 10, 1939
Barclay Compress, Inc	Feb. 9, 1939	Feb. 9, 1939	Mar. 8, 1939
Barras Transfer Line	July 29, 1938	Aug. 6, 1938	(3)
Barrett Co	May 29, 1939	May 31, 1939	(3)
Bauman Bros. Furniture Co	Oct. 13, 1938	Oct. 25, 1938	(1)
Bay City Lumber Co	July 7, 1938	July 13, 1938	Dec. 14, 1938
Belmont Iron Works	July 21, 1938	July 22, 1938	Nov. 25, 1938
Beloit Iron Works	July 7, 1938	July 7, 1938	Sept. 2, 1938
Bemis Bros. Bag Co	Nov. 10, 1938	Nov. 10, 1938	Dec. 7, 1938
Bendix Products Corporation	Nov. 17, 1938	Nov. 17, 1938	(1)
Do	do	do	(1)
Berkely Steel Construction Co	July 11, 1938	July 11, 1938	Oct. 10, 1938
Berkeley Granite Corporation	May 11, 1939	May 12, 1939	(1)

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
B. F. Johnson Lumber Mills	Dec. 8, 1938	Dec. 8, 1938	Apr. 11, 1939
Blackwell Zinc Co	Mar. 23, 1939	Mar. 24, 1939	(2)
Blanchard Bros. & Lane, Inc	Aug. 11, 1938	Aug. 13, 1938	Sept. 27, 1938
B. Oshrin & Bros	June 26, 1939	June 26, 1939	(1)
Boulet Transportation Co., Inc	July 29, 1938	Jan. 19, 1939	(3)
Bradley Lumber Co. of Arkansas	June 29, 1939	June 29, 1939	(1)
Brewer Petroleum Service	Mar. 23, 1939	Mar. 24, 1939	June 7, 1939
Do	do	do	Do.
Brewster Aeronautical Corporation	June 28, 1939	(1)	(4)
Briggs Manufacturing Co	June 5, 1939	June 19, 1939	(1)
Brooklyn Daily Eagle	Jan. 5, 1939	Jan. 6, 1939	(1)
Brooklyn Union Gas Co	Oct. 17, 1938	Nov. 7, 1938	(1)
Do	do	do	(1)
Brown Shoe Co., Inc., and subsidiary Moencit Tanning Co.	July 5, 1938	July 20, 1938	(1)
Bruce Church	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Buckley Hemlock Lumber Co., plywood division	July 25, 1938	July 29, 1938	(1)
Burroughs Adding Machine Co	Apr. 6, 1939	Apr. 7, 1939	(1)
Burton Dixie Corporation	Dec. 1, 1938	Dec. 1, 1938	Jan. 25, 1939
California Packing Corporation	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Canyon Lumber Co	June 22, 1939	June 22, 1939	(1)
Carmel Canning Co	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Cayuga Linen & Cotton Mills	Dec. 8, 1938	Dec. 8, 1938	Feb. 11, 1939
C. E. Irvins and T. M. Stevens, receivers of Mobile & Ohio R. R	July 18, 1938	July 26, 1938	Sept. 29, 1939
Century Biscuit Co	Oct. 20, 1938	Oct. 20, 1938	Nov. 28, 1938
Charles Fredman	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Chicago Malleable Casting Co	Feb. 27, 1939	Feb. 27, 1939	(1)
Chicago, North Shore & Milwaukee R. R. Co	Aug. 22, 1938	Aug. 27, 1938	(1)
Do	do	do	(1)
Chrysler Corporation	Mar. 6, 1939	June 8, 1939	(1)
Do	do	do	(1)
Do	May 16, 1939	do	(1)
Do	do	do	(1)
Cities Service Co. (engineers)	Sept. 26, 1938	Sept. 26, 1938	Jan. 4, 1939
Cities Service Co. (officers)	do	do	Do.
Clifton Manufacturing Co., plant No. 1	Aug. 11, 1938	Aug. 11, 1938	Oct. 4, 1938
Clifton Manufacturing Co., plant No. 2	do	do	Do.
Climax Machinery Co	May 25, 1939	May 25, 1939	(1)
Clyde-Mallory Lines	Mar. 27, 1939	Mar. 30, 1939	(1)
Do	Feb. 15, 1939	Feb. 15, 1939	Apr. 20, 1939
Do	do	do	Do.
Coast Transportation Co., Inc	July 18, 1938	July 26, 1938	Sept. 29, 1938
Coldwell Lawnmower	Aug. 8, 1938	Aug. 10, 1938	(1)
Colonie Fibre Co	Sept. 13, 1938	Sept. 13, 1938	Nov. 5, 1938
Columbia Pictures Corporation	Sept. 8, 1938	Oct. 19, 1938	(1)
Columbia Pictures	Aug. 30, 1938	Oct. 17, 1938	(1)
Columbia Pictures Corporation et al	Oct. 3, 1938	Oct. 24, 1938	(2)
Columbia Pictures Corporation	Aug. 29, 1938	Oct. 6, 1938	(2)
Columbia Pictures et al	Sept. 22, 1938	Oct. 20, 1938	(2)
Commoli Granite Co	July 25, 1938	July 26, 1938	Sept. 21, 1938
Conmar Products Corporation	Feb. 20, 1939	Feb. 20, 1939	(2)
Consolidated Steel Corporation	Nov. 10, 1938	Dec. 8, 1938	(1)
Consumers Power Co	Aug. 29, 1938	Aug. 30, 1938	Nov. 8, 1938
Co-operative Knitting Mills	Jan. 9, 1939	Jan. 9, 1939	Mar. 6, 1939
Coos Bay Lumber Co	Apr. 4, 1939	Apr. 5, 1939	(1)
Cork Bay Logging Co	do	Apr. 4, 1939	(1)
Cotton Trade Warehouse, Inc	Feb. 9, 1939	Feb. 9, 1939	Apr. 25, 1939
C. P. Denny	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Crescent Forwarding & Transporting Co., Ltd	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Crescent Wharf & Warehouse Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Crown Packing Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Cudahy Packing Co	Mar. 10, 1939	Mar. 16, 1939	(1)
Do	Nov. 21, 1938	Nov. 23, 1938	(1)
Custom House Packing Corporation	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Dahlstrom Metallic Door Co	July 25, 1938	July 26, 1938	Feb. 17, 1939
Daniel Creek Logging Co	Apr. 6, 1939	Apr. 6, 1939	June 10, 1939
David Kahn, Inc	July 12, 1938	July 19, 1938	(1)
Do	do	do	(1)
DeBardeleben Coal Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Deep River Timber Co	July 21, 1938	July 21, 1938	Dec. 30, 1938
Del Mar Canning Co	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Dennis Sheen Transfer Co	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Dietrich & Wiltz, Inc	do	do	(2)
Dixie Motor Coach Corporation and Sunshine Bus Lines, Inc	Sept. 26, 1938	Nov. 16, 1938	(1)
Donovan Lumber Co	July 7, 1938	July 13, 1938	Dec. 14, 1938
Dorman Farms Co	Feb. 19, 1939	Feb. 21, 1939	June 28, 1939
Douglas-Aircraft Co., Inc.-El Segunda division	June 30, 1939	June 30, 1939	(1)
Douglas Public Service Corporation	July 29, 1938	Jan. 19, 1939	(5)

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Douglas Transfer, Inc	do	do	Feb. 11, 1939
Douglas Warehouses	do	do	(6)
Du Pont Chemical Co	June 22, 1939	(4)	(4)
Dupuy Storage & Forwarding Corporation	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Eagle Shoe Manufacturing Co	Dec. 19, 1938	Dec. 20, 1938	(1)
Eastern Western Lumber Co	Dec. 12, 1938	Dec. 14, 1938	Apr. 11, 1939
Easton Publishing Co	June 8, 1939	June 12, 1939	(1)
E. B. Gross Canning Co	Jan. 9, 1939	Jan. 11, 1939	Jzn. 31, 1939
E. B. Hunter	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Elberton Granite Industries, Inc	July 25, 1938	July 26, 1938	Sept. 21, 1938
Electric Steel Elevator Co	June 22, 1939	June 22, 1939	(1)
Ernst Bros	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Estate of Frank Newfield, Inc	do	do	Do.
E. T. Fraim Lock Co	Apr. 20, 1939	Apr. 29, 1939	(1)
Fabacher Drayage Co	July 29, 1938	Jan. 19, 1939	(6)
Fabacher Motor Express Co	do	do	Feb. 11, 1939
Farley Confections, Inc	Oct. 25, 1938	Oct. 25, 1938	Nov. 25, 1938
Farley Fruit Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Farmers Produce Co	do	do	Do.
Farr Alpaca Co	July 25, 1938	July 26, 1938	Nov. 25, 1938
F. E. Booth & Co., et al	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Federal Compress & Warehouse Co	Feb. 9, 1939	Feb. 9, 1939	Apr. 25, 1939
Federal Fibre Mills	June 19, 1939	June 21, 1939	(1)
Federal Screw Works	Nov. 28, 1938	Dec. 8, 1938	(1)
Federated Fishing Boats of New England & New York, Inc	Oct. 31, 1938	Nov. 5, 1938	Apr. 21, 1939
Fidelity Warehouse Corporation	July 18, 1938	July 26, 1938	Sept. 29, 1938
Fillette Green & Co	do	do	Do.
First National Pix, Inc	Aug. 29, 1938	Oct. 6, 1938	(3)
Fitzgerald & Litrow	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
False Drayage, Inc	July 29, 1938	Jan. 19, 1938	Feb. 11, 1939
Ford Manufacturing Co	Nov. 4, 1938	Nov. 4, 1938	Dec. 15, 1938
Fort Schuyler Knitting Co	July 28, 1938	July 28, 1938	Sept. 29, 1938
Frank Naruto & Co., Ltd	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Fred G. Hilvert Co	do	do	Do.
Fred R. Bright Co	do	do	Do.
Fruit Products Corporation	Aug. 4, 1938	Aug. 4, 1938	Aug. 30, 1938
Fry Products Corporation	Feb. 28, 1939	Feb. 28, 1939	Apr. 1, 1939
G. A. Dahl & Co	Feb. 17, 1939	Feb. 21, 1939	(6)
Gemmer Manufacturing Co	Mar. 2, 1939	Mar. 3, 1939	Apr. 29, 1939
General Electric Co	Oct. 7, 1938	Oct. 7, 1938	Nov. 25, 1938
General Excavation Co	Sept. 1, 1938	Sept. 1, 1938	Sept. 29, 1938
Independent Candy Co	Sept. 29, 1938	Sept. 29, 1938	Nov. 15, 1938
Ingram-Richardson Manufacturing Co. of Indiana, Inc	Aug. 15, 1938	Aug. 15, 1938	Oct. 14, 1938
Do	do	do	Do.
Inman Mills	July 28, 1938	July 28, 1938	Sept. 22, 1938
International Furniture Co	Aug. 29, 1938	Sept. 14, 1938	(1)
International Harvester Co	Dec. 1, 1938	Dec. 2, 1938	Feb. 20, 1939
International Lumber Co	Aug. 22, 1938	Aug. 23, 1938	Nov. 23, 1938
International Shoe Co., Heel & Rand Factory	June 15, 1939	June 15, 1939	(1)
Interstate Water Co	Oct. 27, 1938	Nov. 3, 1938	Feb. 16, 1939
Isthmian Steamship Co	June 20, 1939	June 20, 1939	(1)
James V. Murray and Edward F. Murray doing business as Richard Murray & Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
J. A. Thomas	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Jersey City Dry Docks Co	Feb. 14, 1939	May 8, 1939	(1)
J. & H. Young Co., Inc	Aug. 22, 1938	Aug. 22, 1938	Nov. 23, 1939
J. J. Little & Ives Co	Jan. 16, 1939	Jan. 16, 1939	(2)
Joe Lowe Corporation	Mar. 20, 1939	Mar. 20, 1939	(1)
Joe Palinisano Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
John E. Marshall, Inc., et al	Jan. 30, 1939	Jan. 31, 1939	(1)
John H. Jones and Frank Jones, copartners doing business as Page & Jones	July 18, 1938	July 26, 1938	Sept. 29, 1938
John Morrell & Co	Apr. 13, 1939	Apr. 15, 1939	May 20, 1939
Johnson's General Drayage & Hauling	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
John T. Murray, Harry R. Murray, and John Klaas, copartners doing business as Murray Stevedore Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Jones & Laughlin Steel Service	Apr. 3, 1939	Apr. 3, 1939	(2)
Jones Lumber Co	Dec. 5, 1938	Dec. 8, 1938	Apr. 11, 1939
Joseph Tedesco, doing business as Tedesco Cartage Co	July 29, 1938	Aug. 6, 1938	(3)
J. P. Carter	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
J. P. Smith Shoe Co	Jan. 13, 1939	Jan. 13, 1939	Feb. 23, 1939
J. R. Atkins and M. D. Greene, copartners, Bay Stevedoring Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
J. R. Dent, Steamship agent	do	do	Do.
Kentucky Utilities Co	Sept. 19, 1938	Sept. 19, 1938	Dec. 13, 1938
Kingan & Co., Inc	May 4, 1939	May 4, 1939	May 27, 1939
Kingsley Lumber Mills	Feb. 27, 1939	Mar. 1, 1939	June 8, 1939

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
KMOX Broadcasting Co	Aug. 4, 1938	Aug. 4, 1938	Dec. 12, 1938
Koppers Co	June 19, 1938	June 19, 1939	(1)
Kramer's Transfer, Inc	July 29, 1938	Aug. 6, 1938	(2)
Kramer & Utchitelle	May 22, 1939	June 9, 1939	(1)
KSD Broadcasting Station	Aug. 4, 1938	Aug. 12, 1938	Dec. 12, 1938
KWK Broadcasting Co	do	do	Do.
LaPlant-Choate Co	May 22, 1939	May 22, 1939	(1)
L. C. Phenix Co	Jan. 16, 1939	Jan. 17, 1939	May 15, 1939
Lennox Furnace Co., Inc	Feb. 20, 1939	Mar. 2, 1939	(1)
Letellier Transfer, Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
General Motors Corporation, Hyatt Bearings Division	Mar. 20, 1939	Apr. 3, 1939	(1)
George G. Averill	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
George J. Hefler	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
George Swink	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Globe Newspaper Co	June 20, 1939	June 23, 1939	(1)
Golden Valley Produce Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Goodyear Tire & Rubber Co	May 22, 1939	(3)	(3)
Gotham Hotel Supply Co	July 7, 1938	July 7, 1938	Nov. 4, 1938
Grays Harbor Lumber Co	do	July 13, 1938	Dec. 14, 1938
Grayson Heat Control, Ltd	June 26, 1939	June 27, 1939	(1)
Great Lakes Steel Corporation	Mar. 16, 1939	Mar. 17, 1939	(1)
Do	do	do	(1)
Gulf Oil Corporation	July 8, 1938	July 14, 1938	(2)
Do	do	do	(2)
Do	do	do	(2)
Gulf Ports Service Corporation	July 18, 1938	July 26, 1938	Sept. 29, 1938
Gulf Public Service Co	Aug. 18, 1938	Sept. 6, 1938	(1)
Hal Roach Studios	Sept. 22, 1938	Oct. 20, 1938	(2)
Hal Roach Studios et al	Oct. 3, 1938	Oct. 24, 1938	(2)
Hamann's Transfer Co., Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Hamilton Hotel	Dec. 8, 1938	Dec. 10, 1938	Dec. 14, 1938
Hammond Box Co., Inc	Aug. 30, 1938	Aug. 31, 1938	(2)
Hammond Shipping Co., Ltd., et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Harris-Hub Bed & Spring Co	June 8, 1939	June 9, 1939	(1)
Hartsell Mills Co	July 21, 1938	July 23, 1938	(1)
Hat Corporation of America	Aug. 2, 1938	Aug. 3, 1938	Mar. 17, 1939
Do	do	do	Do.
Hawk & Buck Manufacturing Co	Dec. 1, 1938	Dec. 3, 1938	Apr. 12, 1939
Hawthorne Paper Co., Inc	Oct. 13, 1938	Oct. 13, 1938	Apr. 3, 1939
Heldman-Schild, Inc	Jan. 9, 1939	Jan. 10, 1939	Apr. 21, 1939
Herrin Motor Lines, Inc	July 29, 1938	Aug. 6, 1938	(2)
Herrin Transportation Co	do	do	(2)
Hershey Chocolate Corporation	Oct. 20, 1938	Oct. 21, 1938	Feb. 24, 1939
Hillenbrand Industries	Dec. 22, 1938	Dec. 22, 1938	(1)
Hirsch Shirt Corporation	Oct. 20, 1938	Oct. 27, 1938	Apr. 28, 1939
Hobbs-Wall Co	Aug. 8, 1938	Sept. 1, 1938	(1)
Hoffman Beverage Co	Aug. 15, 1938	Aug. 15, 1938	Sept. 30, 1938
Do	do	do	Do.
Houma Motor Freight Line	July 29, 1938	Aug. 6, 1938	(2)
Hoyden Food Products Corporation	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Hunter-Johnson Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Hydril Co	May 16, 1939	May 16, 1939	(1)
Ideal Electric & Manufacturing Co	Oct. 3, 1938	Oct. 17, 1938	(1)
Illinois Electric Porcelain Co	Mar. 9, 1939	Mar. 28, 1939	(1)
Illinois Knitting Co., Inc	Oct. 14, 1938	Oct. 19, 1938	Feb. 7, 1939
Illinois Zinc Co	Aug. 15, 1938	Aug. 29, 1938	(1)
I. Miller & Sons, Inc	May 8, 1939	May 9, 1939	(1)
Imperial Garden Growers	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Levi Zentner	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Lewis A. Terven	do	do	do
Libbey-Owens-Ford Glass Co	Sept. 22, 1938	Sept. 23, 1938	Jan. 30, 1939
Lincoln Mills of Alabama	Sept. 27, 1938	Sept. 27, 1938	Nov. 10, 1938
Lind Transfer	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Link Belt Co	Feb. 9, 1939	Feb. 17, 1939	(1)
Litwin & Sons	July 7, 1938	July 13, 1938	(1)
Locke Insulator Corporation	Apr. 24, 1939	Apr. 24, 1939	(1)
Loew's Inc.-M. G. M. et al	Sept. 22, 1938	Oct. 20, 1938	(1)
Do	Oct. 3, 1938	Oct. 24, 1938	(2)
Long Bell Lumber Co	Mar. 20, 1939	Mar. 22, 1939	(1)
Longhall Lumber Co	do	do	(1)
Los Angeles & San Francisco Navigation Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Louis Weinberg Associates, Inc	Feb. 20, 1939	Feb. 20, 1939	June 3, 1939
Luckenbach Gulf Steamship Co., Inc	July 18, 1938	July 26, 1938	Sept. 29, 1938
Lykes Bros. Steamship Co., Inc	Apr. 6, 1939	Apr. 6, 1939	(1)
Lykes Bros. Coastwise Line, Inc	do	do	(2)
McAlbert Oil, Inc., and D. B. McDaniel Drilling Corporation	Sept. 22, 1938	Sept. 27, 1938	(1)
McAdoo Sportswear Co	Apr. 11, 1939	Apr. 11, 1939	May 24, 1939
McCall Corporation	July 21, 1938	July 21, 1938	Sept. 14, 1938

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
McCormick Steamship Co. et al	Jan. 30, 1939	Jan. 30, 1939	(1)
McDaniel & Sons, Inc	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
McQuay-Norris Manufacturing Co	Mar. 9, 1939	Mar. 11, 1939	(1)
M. A. Gotfried	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Maloney Trucking & Storage, Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Margon Corporation	Feb. 20, 1939	Feb. 20, 1939	(2)
Marine Terminals Corporation et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Markham & Callow, Inc	May 8, 1939	May. 8, 1939	(1)
Marlboro Cotton Mills	Apr. 13, 1939	Apr. 13, 1939	(2)
Do	do	do	(2)
Matson Navigation Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Max Ams, Inc	Dec. 27, 1938	Dec. 30, 1938	(2)
May Knitting Co., Inc	Oct. 3, 1938	Oct. 6, 1938	Nov. 17, 1938
May's Manufacturing Co	Dec. 8, 1938	Dec. 8, 1938	Jan. 25, 1939
Medusa Portland Cement Co	Mar. 17, 1939	Mar. 29, 1939	(1)
Merrimac Hat Corporation	Apr. 24, 1939	Apr. 24, 1939	May 25, 1939
Merrimac Manufacturing Co	Sept. 26, 1938	Sept. 27, 1938	Oct. 12, 1938
Do	do	do	Do.
Metropolitan Stevedoring Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
M. G. M. Corporation	Sept. 8, 1938	Oct. 19, 1938	(1)
Do	Aug. 29, 1938	Oct. 6, 1938	(3)
Do	Aug. 30, 1938	Oct. 17, 1938	(1)
Mill B, Inc	Apr. 7, 1939	Apr. 7, 1939	May 27, 1939
Miller Abbatoire Co	Nov. 17, 1938	Nov. 18, 1939	(1)
Milton Bradley Co	May 11, 1939	May 11, 1939	(1)
Milwaukee Publishing Co	July 14, 1938	July 19, 1938	Dec. 9, 1938
Minneapolis Moline Power Implement Co	June 5, 1939	June 6, 1939	(1)
M. O. Best Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Mobile Stevedoring Co., Inc	July 18, 1938	July 26, 1938	Sept. 29, 1988
Monterey Canning Co	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Monument Mills	Oct. 13, 1938	Oct. 14, 1938	Dec. 7, 1938
Mooremack Gulf Lines, Inc	Mar. 20, 1939	(3)	(3)
Motor Products Corporation	June 1, 1939	June 7, 1939	(1)
National Can Co	Apr. 17, 1939	Apr. 19, 1939	(1)
National Carbon Co	Apr. 13, 1939	Apr. 20, 1939	(1)
National Can Co	Apr. 17, 1939	Apr. 19, 1939	(1)
National Motor Rebuilding Corporation	Mar. 13, 1939	Mar. 20, 1939	(1)
National Sugar Refining Co	Mar. 20, 1939	Mar. 21, 1939	(1)
National Sugar Refining Co. of New Jersey	do	do	(1)
National Sugar Refining Co	Nov. 14, 1938	Nov. 17, 1938	Jan. 25, 1939
Naumkeag Steam Cotton Co	Feb. 16, 1939	Feb. 21, 1939	(1)
Do	do	do	(1)
N. D. Cunningham, doing business as Van Heynigen Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
New England Spun Silk Corporation	Jan. 12, 1939	Jan. 12, 1939	Mar. 1, 1939
New Era Die Co	Mar. 23, 1939	Mar. 24, 1939	(1)
New Orleans Compress, Inc	Feb. 9, 1939	Feb. 9, 1939	Apr. 25, 1939
New York & Cuba Mail Steamship Co	Aug. 29, 1938	Aug. 29, 1938	Oct. 5, 1938
New York Post, Inc	Apr. 27, 1939	Apr. 28, 1939	(1)
North American Aviation, Inc	Oct. 10, 1938	Oct. 10, 1938	(1)
Do	do	do	(1)
Northwest Publications, Inc	Sept. 19, 1938	Sept. 22, 1938	Oct. 27, 1938
Norton Lilly & Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Ocean Dominion Steamship Corporation	do	do	Do.
Oceanic Stevedoring Co. of Alabama, Inc	do	do	Do.
Oglesby Granite Quarries	July 25, 1938	do	Sept. 21, 1938
Ohio Brass Co	Jan. 30, 1939	Jan. 31, 1939	June 3, 1939
Ohio Greyhound Lines, Inc	Jan. 23, 1939	Jan. 27, 1939	(1)
Oppenheimer Casing Co	Apr. 13, 1939	Apr. 14, 1939	(1)
Oregon Washington Plywood Co	Mar. 30, 1939	Mar. 30, 1939	May 20, 1939
Outer Harbor Dock & Wharf Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Pacific Mills, Cochecho division	Oct. 18, 1938	Oct. 18, 1939	Dec. 1, 1938
Pan-American Petroleum & Transport Co	Aug. 10, 1938	Aug. 25, 1938	Sept. 28, 1938
Pan-Atlantic Steamship Corporation	July 18, 1938	July 26, 1938	Sept. 29, 1938
Paper, Calmenson & Co	Sept. 10, 1938	Sept. 15, 1938	Jan. 4, 1939
Paramount Pictures, Inc	Aug. 30, 1938	Oct. 17, 1938	(1)
Do	Sept. 8, 1938	Oct. 19, 1938	(1)
Paramount Pictures et al	Sept. 22, 1938	Oct. 20, 1938	(1)
Do	Oct. 3, 1938	Oct. 24, 1938	(2)
Paramount Pictures, Inc	Aug. 29, 1938	Oct. 6, 1938	(3)
Pate Stevedore Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Paul Finkelstein Sons	May 15, 1939	May 17, 1939	(1)
P. Ballantine & Sons	Apr. 24, 1939	May 11, 1939	(1)
Pennsylvania Shipping Co	Dec. 5, 1938	Dec. 5, 1938	Jan. 24, 1939
Do	do	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Pennsylvania Shipping Co. (engine)	do	do	Do.
Petroleum Navigation Co	Oct. 31, 1938	Apr. 1, 1938	Jan. 20, 1939

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Date decision issued
	Date opened	Date closed	
Petroleum Navigation Co	Oct. 31, 1938	Nov. 1, 1938	Jan. 20, 1939
Do	do	do	Do.
Do	do	do	Do.
Postal Telegraph-Cable Co	Oct. 6, 1938	Oct. 6, 1938	Nov. 22, 1938
Portland Lumber Mills	Dec. 9, 1938	Dec. 12, 1938	Apr. 11, 1939
Port of Los Angeles Stevedoring & Ballast Co	Jan. 30, 1939	Jan. 31, 1939	(1)
Port Oxford Cedar Co	Apr. 3, 1939	Apr. 4, 1939	June 14, 1939
P. F. Soto Shipping Co., Ltd., et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Philadelphia Inquirer Co	May 11, 1939	May 19, 1939	(1)
Philadelphia Record Co	do	do	(1)
Piedmont Granite Quarries	July 25, 1938	July 26, 1938	Sept. 21, 1938
Pine Mountain Granite Co	July 18, 1938	July 19, 1938	Sept. 15, 1938
Pittsburgh Plate Glass Co	do	Oct. 14, 1938	Jan. 13, 1939
Premier Furnace Co	May 25, 1939	June 5, 1939	(1)
Principal Productions, Inc	Sept. 22, 1938	Oct. 20, 1938	(1)
Public Service Co. of Colorado, Grand Junction unit	Feb. 16, 1939	Feb. 18, 1939	(1)
Radio Corporation of America	Dec. 19, 1938	Dec. 19, 1938	(1)
Red River Lumber Co	Oct. 13, 1938	Oct. 25, 1938	Dec. 13, 1938
Do	do	do	Do.
Rembrandt Lamp Corporation	Apr. 17, 1939	Apr. 17, 1939	(1)
Richmond Hosiery Mills	July 21, 1938	July 21, 1938	Sept. 12, 1938
Rils Manufacturing Corporation	Dec. 19, 1938	Dec. 19, 1938	Feb. 23, 1939
Rils Novelty Manufacturing Co	do	do	Do.
Riverside Manufacturing Co	Aug. 8, 1939	Aug. 16, 1938	(1)
Riverside Transfer Co., Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
RKO Radio Pictures	Sept. 8, 1938	Oct. 19, 1938	(1)
RKO Radio Pictures, Inc	Aug. 30, 1938	Oct. 17, 1938	(1)
RKO Radio Pictures	Aug. 29, 1938	Oct. 6, 1938	(2)
RKO Radio Pictures et al	Sept. 22, 1938	Oct. 20, 1938	(1)
RKO Pictures et al	Oct. 3, 1938	Oct. 24, 1938	(2)
Roberti Bros., Inc	Apr. 25, 1939	Apr. 28, 1939	(1)
Roseland Manufacturing Co., Inc	Aug. 30, 1938	Aug. 31, 1938	(2)
Ryan Aeronautical Co	June 29, 1939	June 29, 1939	(1)
Ryan Stevedoring Co., Inc	July 18, 1938	July 26, 1938	Sept. 29, 1938
Sam Goldwyn, Inc	Aug. 29, 1938	Oct. 6, 1938	(2)
Samuel Goldwyn, Inc., Ltd	Sept. 22, 1938	Oct. 20, 1938	(1)
San Carlos Canning Co	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
San Xavier Fish Packing Co	do	do	Do.
Schafer Bros. Lumber & Shingle Co	July 7, 1938	July 13, 1938	Dec. 14, 1938
Scottdale Mills, Inc	Jan. 23, 1939	Jan. 26, 1939	(1)
Seabrook Stevedoring Co., and Waterfront Employers Association of Southern California	Jan. 30, 1939	Jan. 31, 1939	(1)
Seaboard Transportation Co	do	do	(1)
Sea Pride Packing Corporation, Ltd	Jan. 9, 1939	Jan. 11, 1939	Jan. 31, 1939
Seas Shipping Co., Inc	Oct. 24, 1938	Oct. 24, 1938	Dec. 13, 1938
Selby Shoe Co	June 29, 1939	June 30, 1939	(1)
Do	do	do	(1)
Selznick International Pictures, Inc	Aug. 29, 1938	Oct. 6, 1938	(1)
Selznick International Pictures, Inc	Sept. 22, 1938	Oct. 20, 1938	(1)
Service Drayage Co., Inc	July 29, 1939	Jan. 19, 1939	Feb. 11, 1983
Seymour Packing Co	Jan. 16, 1939	Jan. 16, 1939	May 18, 1939
Sidney Blumenthal & Co	Feb. 28, 1939	Mar. 1, 1939	Apr. 6, 1939
Silver Fleet, Inc	July 29, 1938	Aug. 6, 1938	(6)
Sinclair Navigation Co	Sept. 28, 1938	Sept. 28, 1938	Oct. 25, 1938
Singer Manufacturing Co	(7)	(7)	July 29, 1938
Shippers Compress & Warehouse, Inc	Feb. 9, 1939	Feb. 9, 1939	Apr. 25, 1939
Showers Bros. Co	Apr. 20, 1939	Apr. 22, 1939	(1)
S. Jackson & Son, Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
S. Karper & Bros	Mar. 16, 1939	Mar. 17, 1939	(1)
Sloss Sheffield Steel & Iron Co	Mar. 6, 1939	Mar. 7, 1939	(1)
Do	do	do	(1)
Smith Thornburg Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Snoqualmie Falls Lumber Co	Aug. 8, 1938	Aug. 10 1938	Dec. 9, 1938
Socony-Vacuum Oil Co., Inc	Nov. 3, 1938	Nov. 3, 1938	Feb. 6, 1939
Socony-Vacuum Oil Co. (marine dept.)	do	do	Do.
Solvay Process Co	Sept. 15, 1938	Oct. 7, 1938	(1)
Southeastern Granite Co	July 25, 1938	July 26, 1938	Sept. 21, 1938
Southeast Portland Lumber Co	Feb. 22, 1939	Mar. 1, 1939	(2)
Southern Quarrying Co	July 25, 1938	July 26, 1938	Sept. 21, 1938
South Texas Coaches, Inc	Apr. 20, 1939	May 6, 1939	(1)
Southwestern Engineering Co	Mar. 30, 1939	Mar. 30, 1939	(1)
Do	do	do	(1)
Southwestern Stevedoring Co. et al	Jan. 30, 1939	Jan. 31, 1939	(1)
Spencer Lens Co	Mar. 23, 1939	Mar. 23, 1939	(2)
Sperry Gyroscope Co., Inc	Jan. 5, 1939	Jan. 6, 1939	(3)
Spring City Foundry Co	Dec. 19, 1938	Dec. 19, 1938	Jan. 27, 1939
Star Crescent Boat Co	Jan. 5 1939	Jan. 13, 1939	(2)
St. Charles Transfer Co	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939
Standard Cap & Seal Co. and Fargo Cap Corporation	(7)	(7)	Dec. 10, 1938

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Dote decision issued
	Date opened	Date closed	
Standard Hat Co	Nov. 14, 1938	Nov. 15, 1938	(1)
Standard Insulation Co	Mar. 27, 1939	Mar. 29, 1939	(1)
Standard Lime & Stone Co	Feb. 2, 1939	Feb. 8, 1939	(1)
Star Woolen Co	Sept. 14, 1938	Sept. 14, 1938	Nov. 23, 1938
State Docks Commission	July 18, 1938	July 26, 1938	Sept. 29, 1938
Stokely Bros. & Co. and Van Camp's	May 15, 1939	May 20, 1939	(1)
Strachan Shipping Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Superior Sheet Metal Works	Oct. 22, 1938	Oct. 22, 1938	Mar. 8, 1939
Swayne & Hoyt, Ltd., doing business as Gulf Pacific Line, Ltd	July 18, 1938	July 26, 1938	Sept. 29, 1938
Swayne & Hoyt, Ltd	do	do	Do.
Swift & Co	Oct. 17, 1938	Nov. 10, 1938	(1)
Do	Dec. 19, 1938	Dec. 19, 1938	Mar. 6, 1939
Tampa Inter-Ocean Steamship Co	Apr. 6, 1939	Apr. 6, 1939	(1)
Texas Co	Dec. 15, 1938	Dec. 17, 1938	Mar. 3, 1939
Do	Sept. 22, 1938	Sept. 22, 1938	Oct. 27, 1938
The Aluminum Co. of America	Sept. 15, 1938	Sept. 15, 1938	Nov. 18, 1938
The A. S. Abell Co	July 18, 1938	July 18, 1938	(2)
The B. F. Goodrich Co	June 30, 1939	(4)	(4)
The Colorado Builders Supply Co	May 11, 1939	May 12, 1939	(1)
The Colorado Fuel & Iron Corporation	July 5, 1938	July 20, 1938	(1)
The Galion All Steel Body Co., Central Ohio Steel Products Co., the National Grave Vault Co	Dec. 8, 1938	Dec. 9, 1938	Mar. 10, 1939
The Long-Bell Lumber Co	Jan. 23, 1939	Jan. 23, 1939	Mar. 15, 1939
The Monte Glove Co., Inc	Apr. 6, 1939	Apr. 10, 1939	(1)
The Peoples Gas Light & Coke Co., and Chicago By-Products Coke Co	June 12, 1939	June 14, 1939	(1)
The Postal Telegraph & Cable Corporation of New York	July 14, 1938	July 15, 1938	Nov. 22, 1938
The Press Co., Inc	Nov. 21, 1938	Nov. 21, 1938	(2)
The S. A. Gerrard Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
The Stratbury Manufacturing Co	Jan. 19, 1939	Jan. 30, 1939	May 2, 1939
The Texas Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Do	Sept. 22, 1938	Sept. 22, 1938	Dec. 27, 1938
Do	do	do	Do.
The Western Union Telegraph Co., Inc	Sept. 12, 1938	Sept. 14, 1938	Mar. 15, 1939
The William Powell Co	Sept. 8, 1938	Sept. 8, 1938	Apr. 7, 1939
Thermoid Co	Apr. 24, 1939	June 5, 1939	(1)
Do	do	do	(1)
Do	do	do	(1)
Do	do	do	(1)
Do	do	do	(1)
Do	do	do	(1)
Thor Packing Co	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Turner Terminal Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Twentieth Century-Fox Film	Aug. 30, 1938	Oct. 17, 1938	(1)
Twentieth Century-Fox Film Corporation	Aug. 29, 1938	Oct. 6, 1938	(2)
Twentieth Century-Fox Film	Oct. 3, 1938	Oct. 24, 1938	(2)
Twentieth Century-Fox Film et al	Sept. 22, 1938	Oct. 20, 1938	(1)
Twentieth Century-Fox Film Corporation	Sept. 8, 1938	Oct. 19, 1938	(1)
T. S. C. Motor Freight Lines of Houston, Inc	July 29, 1938	Aug. 6, 1938	(2)
Union Forging Co	May 15, 1939	May 23, 1939	(1)
Union Manufacturing Co., Inc	do	May 15, 1939	(1)
Utica Knitting Co	July 14, 1938	July 14, 1938	Aug. 3, 1938
United Artists Studio	Oct. 3, 1938	Oct. 24, 1938	(2)
Do	Sept. 8, 1938	Oct. 19, 1938	(1)
United Commercial Co	Nov. 1, 1938	Nov. 3, 1938	Feb. 28, 1939
United Container Co	Mar. 9, 1939	Mar. 15, 1939	Apr. 27, 1939
United Fruit Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
U. S. Brass Turning Co	Feb. 14, 1939	Feb. 14, 1939	(2)
Universal Pictures Co	Aug. 29, 1938	Oct. 6, 1938	(2)
Do	Aug. 30, 1938	Oct. 17, 1938	(1)
Do	Sept. 8, 1938	Oct. 19, 1938	(1)
Universal Pictures et al	Sept. 22, 1938	Oct. 20, 1938	(1)
Universal Pictures	Oct. 3, 1938	Oct. 24, 1938	(2)
Vanadium Corporation of America	June 14, 1939	June 14, 1939	(1)
Do	Sept. 19, 1938	Sept. 19, 1938	Oct. 25, 1938
Van Camp's Inc. (Stokeley)	May 15, 1939	May 20, 1939	(1)
Van Camp's Inc	do	do	(1)
Vaughn Transfer Co	July 29, 1938	Jan. 18, 1939	Feb. 11, 1939
V. LaRosa & Sons, Inc	July 8, 1938	Aug. 16, 1938	Dec. 6, 1938
Wade Manufacturing Co	Apr. 27, 1939	Apr. 27, 1939	(1)
Walgreen Drug Stores, Inc	Apr. 18, 1939	do	(1)
Walla Walla Meat & Cold Storage Co	Oct. 6, 1938	Oct. 6, 1938	Nov. 23, 1938
Walsh Stevedoring Co., Inc	July 18, 1938	July 26, 1938	Sept. 29, 1938
Walt Disney Productions, Ltd	Oct. 24, 1938	Oct. 25, 1938	(1)
Walt Disney Productions, Inc	do	do	(1)
Walter O. Burke (Illinois Candy Co.)	Dec. 15, 1938	Dec. 15, 1938	Feb. 2, 1939
Walter Wanger Productions	Aug. 29, 1938	Oct. 6, 1938	(2)

See footnotes at end of table, p. 187.

Representation cases—Continued

Name of case	Date hearing held		Dote decision issued
	Date opened	Date closed	
Walworth Co	Mar. 18, 1938	Mar. 19, 1938	Aug. 2, 1938
Warner Bros	Sept. 8, 1938	Oct. 19, 1938	(1)
Do	Aug. 30, 1938	Oct. 17, 1938	(3)
Warner Bros. Pictures, Inc	Aug. 29, 1938	Oct. 6, 1938	(3)
Warner Bros. Pictures et al	Sept. 22, 1938	Oct. 20, 1938	(1)
Do	Oct. 3, 1938	Oct. 24, 1938	(2)
Warrant Compress & Warehouse Co	July 18, 1938	July 26, 1938	Sept. 29, 1938
Warren-Telechrone Co	Apr. 10, 1939	Apr. 10, 1939	May 27, 1939
Warwick Manufacturing Co	Mar. 30, 1939	Mar. 30, 1939	May 12, 1939
Waterman Steamship Corporation	July 18, 1938	July 26, 1938	Sept. 29, 1938
Do	Nov. 9, 1938	Nov. 9, 1938	Jan. 9, 1939
West Coast Wood Preserving Co	May 29, 1939	May 29, 1939	(1)
Western Pipe & Steel Co	Feb. 9, 1939	Feb. 11, 1939	(2)
Do	Aug. 25, 1938	do	(1)
Do	Feb. 9, 1939	do	(1)
Western Vegetable Distributors	Feb. 17, 1939	Feb. 21, 1939	June 28, 1939
Westinghouse Electric & Manufacturing Co. (porcelain division)	Apr. 27, 1939	Apr. 28, 1939	May 31, 1939
Westinghouse Electric & Manufacturing Co. (Derry works)	do	do	Do.
Westinghouse Electric & Manufacturing Co	June 22, 1939	June 23, 1939	(1)
Westinghouse Electric & Manufacturing Co. (Chicago branch service)	Oct. 20, 1938	Oct. 22, 1938	Dec. 23, 1938
West Kentucky Coal Co	May 22, 1939	May 23, 1939	(1)
Western Union Telegraph Co	June 22, 1939	June 24, 1939	(1)
West Oregon Lumber Co	Sept. 1, 1938	Sept. 2, 1938	(1)
West Texas Utilities Co	July 25, 1938	Dec. 19, 1938	(1)
WEW Radio Station	Aug. 4, 1938	Aug. 12, 1938	Dec. 10, 1938
Weyerhaeuser Timber Co. (Longview branch)	Mar. 3, 1939	Mar. 18, 1939	(1)
Do	Mar. 9, 1939	do	(1)
Weyerhaeuser Timber Co	do	do	(1)
White River Lumber Co	Mar. 27, 1939	Mar. 28, 1939	June 14, 1939
White Sewing Machine Corporation	Nov. 22, 1938	Nov. 23, 1938	Dec. 23, 1938
Whittier Mills Co	Jan. 23, 1939	Jan. 26, 1939	(1)
WIL Broadcasting Station	Aug. 4, 1938	Aug. 4, 1938	(3)
Wilson & Co	May 11, 1939	May 12, 1939	(1)
Do	Nov. 28, 1938	Nov. 30, 1938	(1)
Do	July 7, 1938	July 7, 1938	Nov. 4, 1938
Do	do	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Do	do	do	Do.
Wilson & Co	July 7, 1938	July 7, 1938	Nov. 4, 1938
Do	do	do	Do.
Wilson H. Lee Co	May 18, 1939	June 2, 1939	(1)
Wilson-Jones Loose Leaf Co	Dec. 16, 1938	Dec. 20, 1938	May 29, 1939
Do	do	do	Do.
W. Lowenthal Co., Inc	Sept. 12, 1938	Sept. 12, 1938	Nov. 23, 1938
Wm. J. Jaeger Manufacturing Co	Oct. 20, 1938	Oct. 20, 1938	Jan. 1, 1939
Woodward Iron Co	May 1, 1939	May 5, 1939	(1)
W. W. Kimball Co	Mar. 30, 1939	Mar. 30, 1939	May 15, 1939
Yates-American Machine Co	Oct. 20, 1938	Oct. 20, 1938	Dec. 23, 1938
Young's Transfer, Inc	July 29, 1938	Jan. 19, 1939	Feb. 11, 1939

[1] Awaiting decision.
[2] Settled after hearing.
[3] Withdrawn after hearing.
[4] Hearing in progress.
[5] Hearing postponed indefinitely.
[6] Dismissed after hearing.
[7] Hearing waived by all parties.

XIV. FISCAL STATEMENT

The expenditures and obligations for fiscal year ended June 30, 1939, are as follows:

Salaries	$2,023,324
Travel expense	301,060
Communications	78,313
Reporting	55,526
Rentals	166,162
Furniture and equipment	57,153
Supplies and materials	29,886
Special and miscellaneous	8,893
Transportation of things	2,162
Total salaries and expenses	2,722,479
Printing and binding	123,292
Grand total expenditures and obligations	2,845,771

APPENDIX A

TABLE I.—*Comparison of number of cases brought before the National Labor Relations Board and number of strikes, beginning in each month for all causes, and for organization, October 1935–June 1939*

Year and month	Number of cases brought before Board (1)	Number of strikes		Ratio of Board cases to strikes	
		For all causes (2)	For organization (3)	Percent for all causes [(1) over (2)]	Percent for organization [(1) over (3)]
1935					
October	203	169	79	120	257
November	153	119	48	129	319
December	110	80	34	138	324
1936					
Total	1,301	1,951	971	67	134
January	110	138	62	80	177
February	66	132	69	50	96
March	90	163	82	54	110
April	142	158	73	90	195
May	108	188	89	57	121
June	86	168	87	51	99
July	74	144	65	51	114
August	112	211	120	53	93
September	150	209	95	72	158
October	147	175	90	84	163
November	88	131	72	67	122
December	128	129	67	99	191
1937					
Total	9,424	4,270	2,412	221	391
January	110	160	80	69	138
February	195	199	110	98	177
March	239	581	281	41	85
April	477	490	270	97	177
May	1,064	532	298	200	357
June	1,283	552	329	232	390
July	1,325	400	238	331	557
August	1,119	400	243	280	460
September	994	321	196	310	507
October	1,054	278	165	379	639
November	959	232	132	413	727
December	606	125	70	485	866
1938					
Total	7,990	2,180	1,063	367	752
January	674	148	66	455	1,021
February	629	156	76	403	828
March	896	216	100	415	896
April	823	207	93	398	885
May	624	233	102	268	612
June	727	178	93	408	782
July	605	164	59	369	1,025
August	606	203	103	299	588
September	594	176	82	338	724
October	706	196	115	360	614
November	518	167	105	310	493
December	588	136	69	432	852

TABLE I.—*Comparison of number of cases brought before the National Labor Relations Board and number of strikes, beginning in each month for all causes, and for organization, October 1935–June 1939*—Continued

Year and month	Number of workers involved in cases brought before Board	Number of workers involved in strikes		Ratio of Board cases to strikes	
		For all causes	For organization	Percent for all causes	Percent for organization
	(1)	(2)	(3)	[(1) over (2)]	[(1) over (3)]
1939					
January	480	163	91	294	527
February	533	173	96	308	555
March	552	179	107	308	516
April	601	[1] 203	[1] 91	296	660
May	588	[1] 206	[1] 104	285	565
June	533	194	76	275	701

[1] The bituminous coal stoppage has not been included. The U. S. Bureau of Labor Statistics has classified this by major issue as an organization strike.

Source: U. S. Department of Labor, Bureau of Labor Statistics, Strike Statistics Section. Strike data are for disputes beginning in the month, issued monthly, and broken down by major issue involved. The total revised figures issued annually by the Bureau, of strikes beginning in the year, are not broken down by cause. The yearly strike totals in the above table are thus unrevised and are the sum of the monthly figures.

CHART A

NUMBER OF STRIKES CONTRASTED WITH NUMBER OF CASES BROUGHT BEFORE THE NATIONAL LABOR RELATIONS BOARD

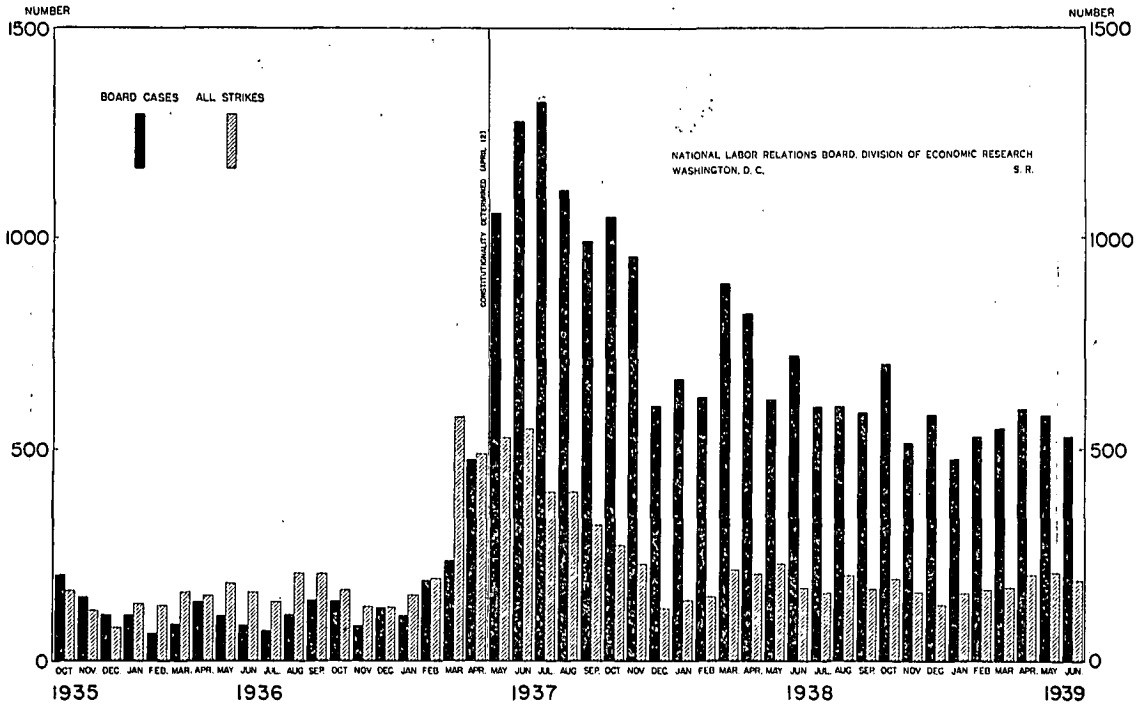

CHART. B

NUMBER OF ORGANIZATION STRIKES CONTRASTED WITH NUMBER OF CASES BROUGHT BEFORE THE NATIONAL LABOR RELATIONS BOARD

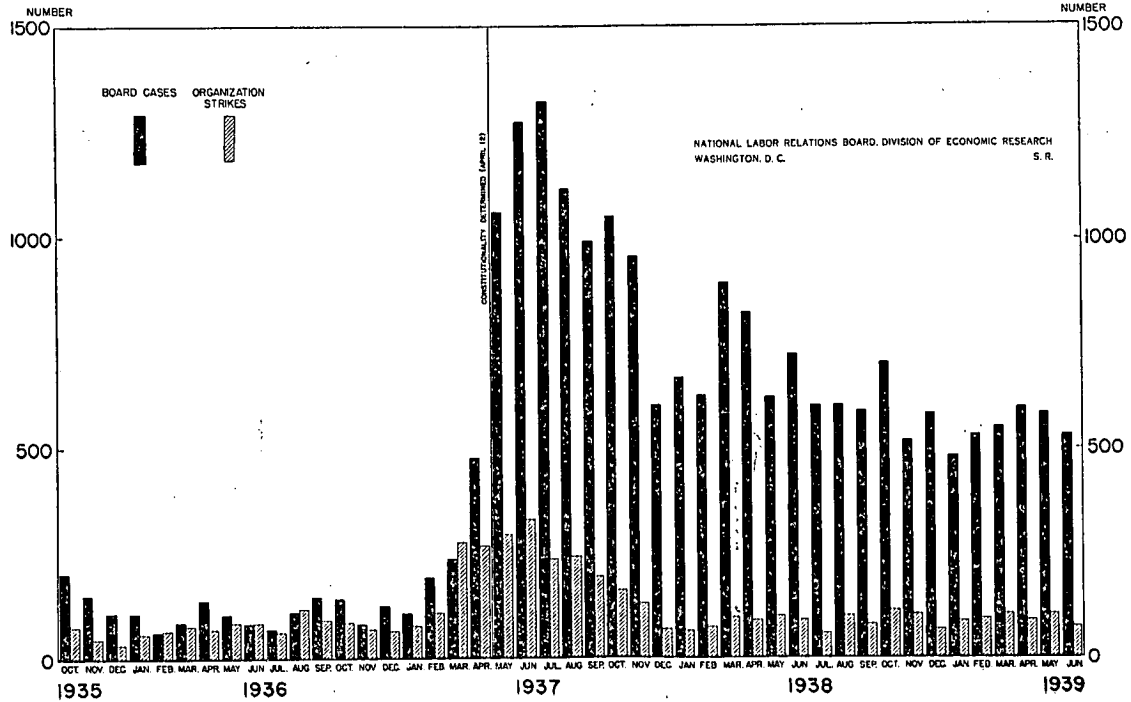

TABLE 1E.—*Comparison of number of workers involved in cases brought before the National Labor Relations Board and number of workers involved in strikes beginning in each month, for all causes, and for organization, October 1935–June 1939*

Year and month	Number of workers involved in cases brought before Board (1)	Number of workers involved in strikes		Ratio of Board cases to strikes	
		For all causes (2)	For organization (3)	Percent for all causes [(1) over (2)]	Percent for organization [(1) over (3)]
1935					
October	47,790	92,357	28,213	52	169
November	47,580	34,661	8,259	137	576
December	27,580	14,133	4,059	195	679
1936					
Total	523,138	763,783	419,538	68	125
January	20,346	30,001	7,225	68	282
February	5,424	62,259	35,898	9	15
March	19,300	74,475	13,811	26	140
April	11,646	62,551	45,465	19	26
May	26,460	71,625	45,388	37	58
June	34,739	61,243	29,250	57	119
July	31,936	36,115	11,893	88	269
August	8,565	64,510	46,252	13	19
September	9,214	60,555	29,730	15	31
October	27,335	96,608	66,898	28	41
November	309,187	70,515	33,795	438	915
December	18,986	73,326	53,933	26	35
1937					
Total	2,339,631	1,816,847	1,051,528	129	222
January	24,744	105,076	73,202	23	34
February	74,870	106,910	40,949	70	183
March	49,187	231,887	185,049	17	26
April	159,051	214,760	114,965	74	138
May	315,470	321,022	229,936	98	137
June	369,737	278,783	131,574	133	281
July	305,049	139,976	72,173	218	423
August	304,237	134,078	91,125	227	334
September	180,231	84,032	50,387	215	358
October	175,951	61,395	25,923	287	679
November	225,410	66,168	21,283	341	1,111
December	155,634	21,760	14,954	715	1,041
1938					
Total	1,219,489	652,927	196,748	187	620
January	121,113	32,357	13,312	374	910
February	106,172	50,935	5,719	208	1,856
March	154,858	53,914	27,395	287	759
April	176,414	75,840	20,390	233	865
May	92,917	85,792	15,810	107	588
June	102,813	49,602	23,353	207	440
July	85,065	45,071	11,171	189	761
August	77,091	45,919	13,997	168	551
September	82,831	90,887	28,779	91	288
October	67,381	50,167	12,939	134	519
November	76,807	37,770	19,579	203	392
December	76,017	33,673	11,239	226	676
1939					
January	149,186	48,271	16,719	309	892
February	135,595	64,499	24,431	210	555
March	123,782	40,783	16,612	304	745
April	113,905	[1] 60,087	[1] 19,209	190	593
May	89,592	[1] 77,995	[1] 43,093	115	208
June	70,032	55,714	7,441	126	941

[1] The bituminous coal stoppage has not been included. There were an estimated 330,000 workers involved in this during April and an estimated 13,500 involved during May. The U. S. Bureau of Labor Statistics has classified this by major issue as an organization strike.

Source: U. S. Department of Labor, Bureau of Labor Statistics, Strike Statistics Section. Strike data are for disputes beginning in the month, issued monthly, and broken down by major issue involved. The total revised figures issued annually by the Bureau, of strikes beginning in the year, are not broken down by cause. The yearly strike totals in the above table are thus unrevised and are the sum of the monthly figures.

CHART C

NUMBER OF WORKERS INVOLVED IN STRIKES CONTRASTED WITH THE NUMBER OF WORKERS INVOLVED IN CASES BROUGHT BEFORE THE NATIONAL LABOR RELATIONS BOARD

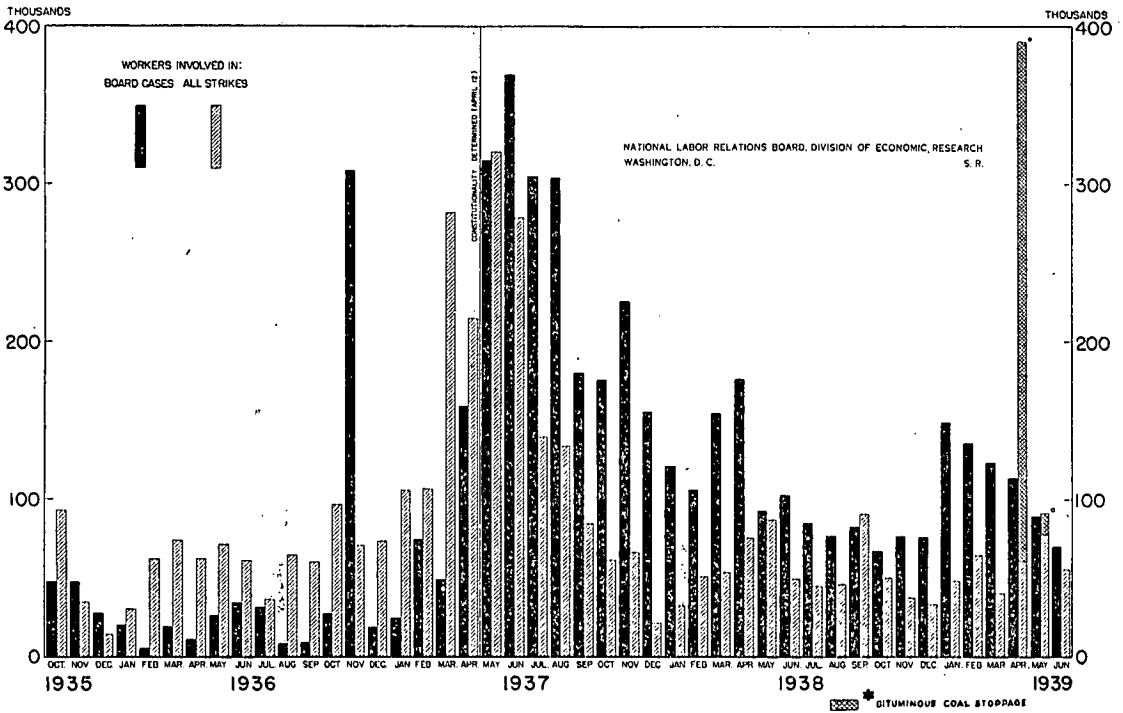

CHART 6

NUMBER OF WORKERS INVOLVED IN ORGANIZATION STRIKES CONTRASTED WITH THE NUMBER OF WORKERS INVOLVED IN CASES BROUGHT BEFORE THE NATIONAL LABOR RELATIONS BOARD

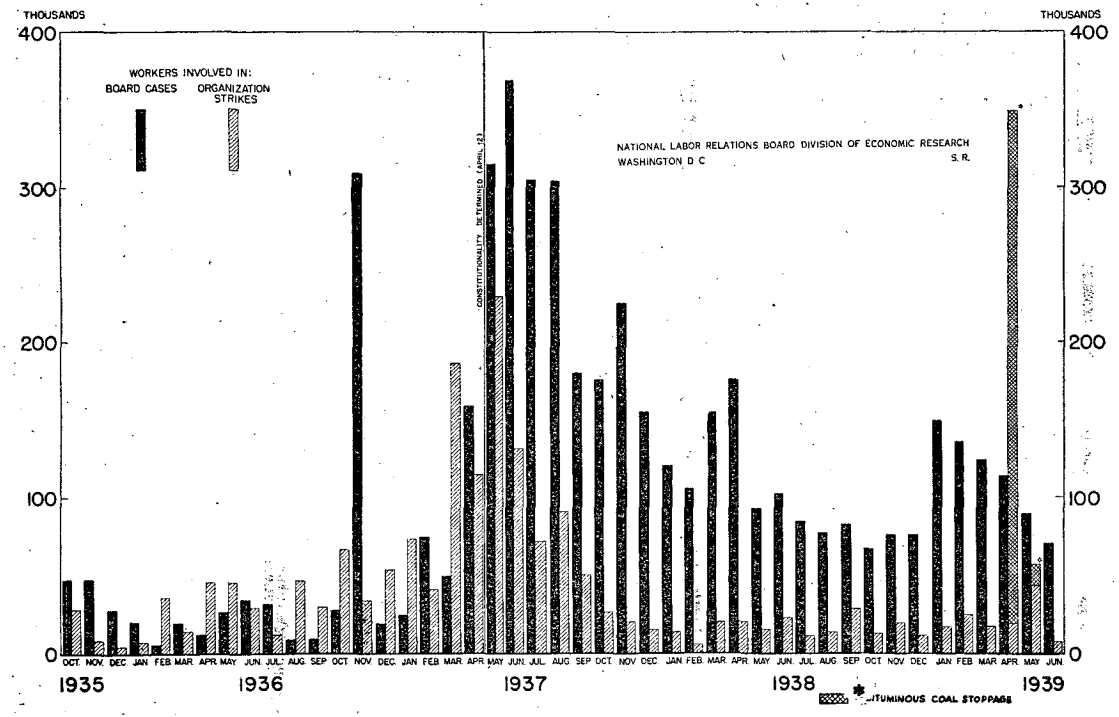

TABLE III.—*Decrease in strikes in industries in which the National Labor Relations Board has taken jurisdiction compared with decrease in other industries, 1937–38* [1] *(for disputes beginning in the year)*

Disputes	Total all industries	Industries in which the National Labor Relations Board has taken jurisdiction	Industries in which the National Labor Relations Board has taken partial or no jurisdiction
1937			
Number of strikes	4,740	3,184	1,556
Number of workers involved	1,860,621	1,449,720	410,901
Man-days of idleness	28,424,857	23,970,757	4,454,100
1938			
Number of strikes	2,772	1,673	1,099
Number of workers involved	688,376	490,557	197,819
Man-days of idleness	9,148,273	6,971,408	2,176,865
1937–38			
Percent decrease:			
Number of strikes	42	48	29
Number of workers involved	63	66	52
Man-days of idleness	68	71	51

[1] See attached appendix for break-down of industries.

APPENDIX

INDUSTRIES IN WHICH THE NATIONAL LABOR RELATIONS BOARD HAS TAKEN JURISDICTION (ACCORDING TO BUREAU OF LABOR STATISTICS INDUSTRY CLASSIFICATIONS)

Iron and steel
Machinery
Transportation equipment
Nonferrous metals
Lumber
Stone, clay, and glass
Textiles
Leather
Food
Tobacco
Chemicals and allied
Paper and printing
Rubber products
Miscellaneous manufacturing
Mineral extraction
Water transportation
Telephone and telegraph
Radio transmission
Wholesale trade
Fishing

INDUSTRIES IN WHICH THE NATIONAL LABOR RELATIONS BOARD HAS TAKEN PARTIAL OR NO JURISDICTION (ACCORDING TO BUREAU OF LABOR STATISTICS INDUSTRY CLASSIFICATIONS)

Motortruck transportation
Motorbus transportation
Taxicabs and miscellaneous
Electric railroad
Steam railroad
Other transportation
Retail trade
Domestic and personal service
Professional service
Building and construction
Agriculture
Other agriculture, fishing, etc.
W. P. A., relief, etc.
Other nonmanufacturing
General strikes

Source: U. S. Department of Labor, Bureau of Labor Statistics, Strike Statistics Section, annual revised figures for disputes beginning in the year, by industry.

CHART E

TREND OF MAN-DAYS OF IDLENESS DUE TO STRIKES COMPARED WITH TREND OF BUSINESS ACTIVITY

JANUARY 1935 – JUNE 1939

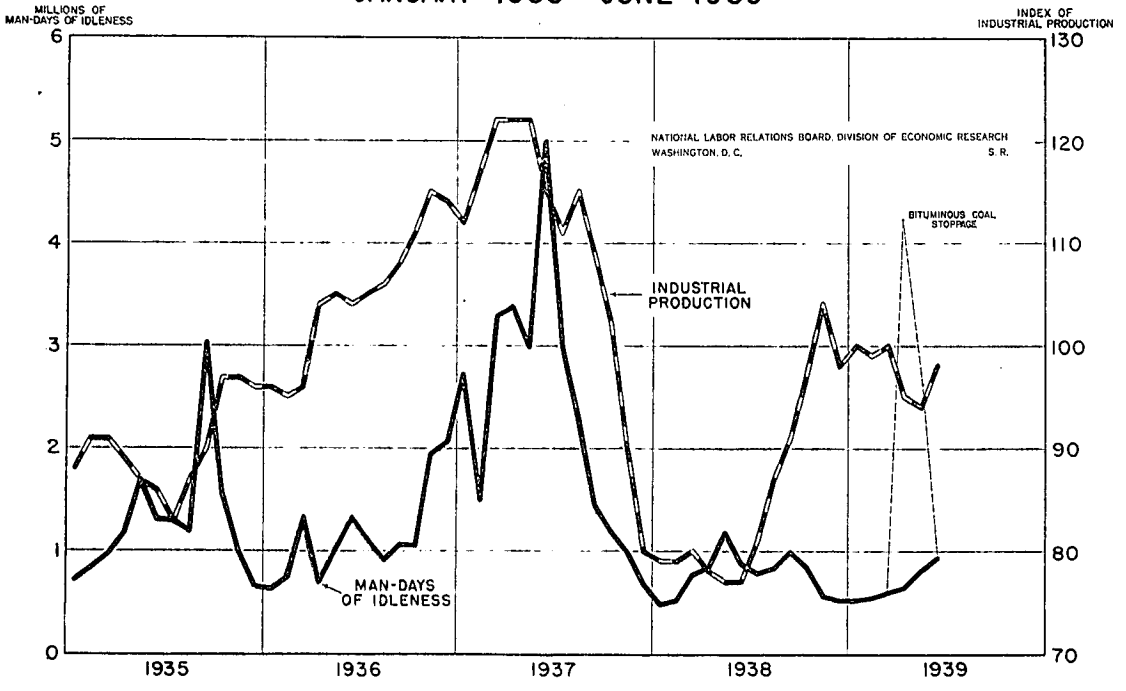

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TABLE IV.—*Trend of man-days of idleness due to strikes compared with trend of business activity, January 1935–June 1939*

Month and year	Man-days of idleness	Industrial production index	Month and year	Man-days of idleness	Industrial production index
1935					
January	720,778	88	April	3,377,223	122
February	836,498	91	May	2,982,735	122
March	966,980	91	June	4,998,408	115
April	1,178,851	89	July	3,007,819	111
May	1,697,848	87	August	2,270,389	115
June	1,311,278	86	September	1,449,948	109
July	1,297,730	83	October	1,181,914	102
August	1,191,663	87	November	981,697	90
September	3,027,040	90	December	674,205	80
October	1,562,908	97	*1938*		
November	1,003,852	97	January	473,289	79
December	660,911	96	February	514,111	79
1936			March	767,856	80
			April	838,158	78
January	635,519	96	May	1,174,052	77
February	748,491	95	June	871,002	77
March	1,331,162	96	July	776,237	81
April	699,900	104	August	830,987	87
May	1,019,171	105	September	959,916	91
June	1,327,678	104	October	842,202	97
July	1,105,480	105	November	557,903	104
August	911,216	106	December	512,560	98
September	1,063,100	108	*1939*		
October	1,053,878	111	January	512,112	100
November	1,910,628	115	February	539,596	99
December	2,065,733	114	March	591,378	100
1937			April	[1] 641,967	95
January	2,720,281	112	May	[1] 805,686	94
February	1,491,268	117	June	923,083	98
March	3,288,979	122			

[1] Does not include bituminous coal stoppage; there were an estimated 4,226,000 man-days of idleness during April and 2,694,000 during May as a result of this stoppage.

Source: Strike data: U. S. Department of Labor, Bureau of Labor Statistics, Strike Statistics Section. Industrial production index: Board of Governors, Federal Reserve System.

APPENDIX B

LIST OF RECENT REFERENCES ON NATIONAL LABOR RELATIONS BOARD[1]

COMPILED BY DIVISION OF ECONOMIC RESEARCH

A. CURRENT

American Federation of Labor. *American Federationist.* Washington. Monthly. (Contains section "National Labor Relations Board decisions.")

Bureau of National Affairs, Inc. *Labor relations reporter.* Washington. Weekly.

Chester M. Wright and Associates. *Chester Wright's labor letter.* Washington. Weekly.

Commerce Clearing House. *Labor law service.* New York. Irregular.

Congressional Intelligence. *Labor relations service.* Washington. Weekly.

International Juridical Association. *International Juridical Association bulletin.* New York. Monthly.

Prentice-Hall. *Labor and unemployment insurance service.* New York. Irregular.

B. BOOKS AND PAMPHLETS. ARRANGED ALPHABETICALLY BY AUTHOR

American Forum of the Air. *A radio discussion of the National Labor Relations Act,* by Charles R. Hook, J. Warren Madden, and Charles Fahy, John C. Gall, Ernest K. Lindley, Walter Gordon Merritt. Washington. Jan. 1939. 19 p.

——— *A radio discussion of the National Labor Relations Act,* by Edward R. Burke, Sherman Minton, and Clare E. Hoffman, Joseph Padway, Lee Pressman, Richard L. Strout. Washington. Apr. 1939. 15 p.

American Management Association. Personnel Series No. 32. *The status of industrial relations,* by Thomas G. Spates, Charles Fahy, Russell L. Greenman, H. L. Nunn. 1938. 43 p.

——— Personnel Series No. 36. *Management's responsibilities in industrial relations,* by C. M. Chester. 1939. 14 p.

——— Personnel Series No. 37. *Employer associations in collective bargaining,* by Almon E. Roth, Ivan L. Willis, A. B. Gates. 1939. 27 p.

America's Town Meeting of the Air. *Should the Wagner Act be revised?* by Roy W. Moore, William M. Leiserson. New York. Columbia University Press. Jan. 1939. 33 p.

Baldwin, Roger N. and Randall, Clarence B. *Civil liberties and industrial conflict.* Cambridge. Harvard University Press. 1938. 137 p.

Brooks, Robert R. R. *Unions of their own choosing.* New Haven. Yale University Press. 1939. 296 p.

Cayton, H. R. and Mitchell, G. S. *Black workers and the new unions.* Chapel Hill. The University of North Carolina Press. 1939. 473 p.

Chamber of Commerce of the United States. *Amendment of the National Labor Relations Act.* Washington. Oct. 1939. 19 p.

Greenman, Russell L. *The worker, the foreman and the Wagner Act.* New York. Harper. 1939. 137 p.

Griffin, J. I. *Strikes; a study in quantitative economics.* New York. Columbia University Press. 1939. 319 p.

Harris, Herbert. *American labor.* New Haven. Yale University Press. 1939. 459 p.

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[1] Extends bibliography included as Appendix to Third Annual Report. Covers period November 1938–October 1939. The controversial literature centering around the National Labor Relations Act and its administration is far too voluminous to be included with any completeness here. No attempt is made to cover all statements that have been issued, in article or pamphlet form, presenting divergent points of view with respect to the administration of the Act and the question of amendment. The recent Congressional Hearings, included under section B., provide very ample statements.

Leiserson, William M. *Right and wrong in labor relations.* Berkeley. University of California Press. 1938. 86 p.
Lien, H. A. *Labor law and relations,* with supplement. New York. Bender. 1938. 747 p.
Marquand, H. A. and others. *Organized labour in four continents.* Longman's. 1939. 518 p.
McCabe, D. A. and Lester, R. A. *Labor and social organization.* Boston. Little, Brown and Co. 1938. 374 p.
Ross, Malcolm. *Death of a Yale man.* New York. Farrar & Rinehart, Inc. 1939. 385 p.
Rotwein, A. and N. *Labor law.* Brooklyn. Harmon Publications. 1939. 259 p.
Taylor, A. G. *Labor problems and labor law.* New York. Prentice-Hall. 1938. 663 p.
U. S. Bureau of Labor Statistics. *Labor laws and their administration, 1937: Proceedings of the twenty-third convention of the International Association of Governmental Labor Officials, Toronto, Canada, September 1937.* Bulletin No. 653. Washington. 1938. 241 p.
U. S. Congress. House of Representatives. *Proposed amendments to the National Labor Relations Act: Hearings before the Committee on Labor, May 4 to July 26, 1939.* 76th Cong., 1st sess. Washington. 1939. 2289 p.
U. S. Congress. Senate. *National Labor Relations Act and proposed amendments: Hearings before the Committee on Education and Labor, Apr. 11 to Aug. 2, 1939, on S. 1000, S. 1264, S. 1392, S. 1550, S. 1580, and S. 2123.* 76th Cong., 1st sess. Washington. 1939. 4156 p.
U. S. National Labor Relations Board. *Decisions and orders. vol. VI. Mar. 16, 1938–Apr. 30, 1938.* Washington. 1938. 865 p.
——— *Decisions and orders. vol. VII. May 1, 1938–June 30, 1938.* Washington. 1938. 1345 p.
——— *Decisions and orders. vol. VIII. July 1, 1938–Sept. 30, 1938.* Washington. 1938. 1425 p.
——— *Decisions and orders. vol. IX. Oct. 1, 1938–Nov. 30, 1938.* Washington. 1939. 1349 p.
——— *Decisions and orders. vol. X. Dec. 1, 1938–Jan. 31, 1939.* Washington. 1939. 1560 p.
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——— *Decisions and orders. vol. XII. Apr. 1, 1939–May 31, 1939.* Washington. 1939. 1557 p.
——— *Third Annual Report * * * for the fiscal year ended June 30, 1938.* Washington. 1939. 292 p.
——— Division of Economic Research. *Collective bargaining in the newspaper industry.* Bulletin No. 3. Washington. Oct. 1938. 194 p.
——— Division of Economic Research. *Effective collective bargaining,* by David J. Saposs and Lyle Cooper. Washington. Outline No. VII. Dec. 1938. 7 p. (mimeographed).
——— Division of Economic Research. *Role of supervisory employees in spreading employer views,* by David J. Saposs, Katherine P. Ellickson, and Bernard W. Stern. Research Memorandum No. 3. Washington. Nov. 1938. 6 p. (mimeographed).
——— Division of Economic Research. *Savings resulting from the effective operation of the National Labor Relations Act in 1938, compared with costs of its operation,* by David J. Saposs and Morris Weisz. Research Memorandum No. 7. Washington. June 1939. 4 p. (mimeographed).
——— Division of Economic Research. *Union-employer responsibility,* by Lyle Cooper. Research Memorandum No. 4. Washington. Jan. 1939 (mimeographed).
——— *Report to the National Labor Board by Special Commission. Feb. 11, 1934.* Second impression, 1939. Washington. 14 p. (mimeographed).
U. S. Works Progress Administration. *Labor relations in the petroleum industry,* by Daniel Horowitz. Second Edition. New York. 1938. 82 p.
——— *Newswriters' unions in English speaking countries,* by Estelle Murasken. Second Edition. New York. 1938.
——— *The petroleum industry: a study of its interstate aspects,* by David Levine. New York. 1938. 92 p.
University of Chicago. Round Table. *A radio discussion of the Wagner Act Reviewed,* by Charles O. Gregory, William H. Spencer, Raleigh W. Stone. Chicago. March 12, 1939. 12 p.

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Yoder, D. *Labor economics and labor problems.* Second Revised Edition. New York. McGraw-Hill. 1939. 669 p.

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Administrative procedure: National Labor Relations Board (address.), by J. Warren Madden. West Virginia Law Quarterly and The Bar. Feb. 1939. 45: 93–108.
"Amend the Labor Law, change the Board" (says industrial plant management in Factory survey). Factory Management and Maintenance. Jan. 1939. 97: 38–47.
Appropriate collective bargaining units; National Labor Relations Board decisions, by R. A. Nixon. Harvard Business Review. Spring 1939. 17 no. 3: 317–25.
Changing character of American industrial relations, by S. H. Slichter. American Economic Review. Mar. 1939. 29: sup. 121–37.
Collective bargaining and personal freedom, by Ordway Tead. Society for the Advancement of Management Journal. Nov. 1938. 3: 161–6.
Conflict and collaboration; recent literature on labor relations, by B. M. Selekman. Harvard Business Review. April 1939. 17 no. 3: 356–68.
Congress tackles the Labor Relations Act. Congressional Digest. June-July, 1939. 18: 165–92.
Consolidated Edison Company labor decision, by C. F. Marsh, Journal of Land and Public Utility Economics. Feb. 1939. 15: 105–8.
"Discrimination" under the National Labor Relations Act, by Chester Ward. Yale Law Journal. May 1939. 48: 1152–99.
Drive to amend the Wagner Act, by E. M. Herrick. Womans Press. May 1939. 33: 214.
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Evidence before the National Labor Relations Board, by Ralph M. Goldstein. Boston University Law Review. Jan. 1939. 19: 32–38.
The Fansteel case; employee misconduct and the remedial powers of the National Labor Relations Board, by Henry M. Hart, Jr., Edward F. Pritchard, Jr. Harvard Law Review. June 1939. 52: 1275–1329.
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The "Globe rule" for determining appropriate bargaining units under the Wagner Act. University of Chicago Law Review. June 1939. 6: 673–87.
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Government's role in the adjustment of labor disputes (address.), by Edwin E. Witte. Minnesota Law Review. Dec. 1938. 23: 64–75.
Industrial relations executive and collective bargaining, by H. Baker. Society for the Advancement of Management Journal. July 1939. 4: 105–7.
Industrial relations in 1938, by Florence Peterson. Monthly Labor Review. Mar. 1939. 48: 493–508.
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The influence of the National Labor Relations Board upon inter-union conflicts, by Thomas F. McGovern. Columbia Law Review. Nov. 1938. 38: 1243–67.
"Interference" in labor relations acts, by A. Howard Myers. Boston University Law Review. Apr. 1939. 19: 208–25.
Interunion disputes and the employer. Yale Law Journal. Apr. 1939. 48: 1053–82.
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[2] In addition to the sources listed under this heading there are numerous periodicals which often devote space to the subject. These include publications with a general circulation (e. g., Business Week, The Nation, New Republic, Saturday Evening Post, Newsweek), publications of employer groups, trade papers, and trade union publications.

Judicial review of the National Labor Relations Board, by Nathaniel L. Nathanson and Ellis Lyons. Illinois Law Review. Mar. 1939. 33: 749–70.

Labor and capital can be friends, by William M. Leiserson. Democratic Digest. Aug. 1939. 16: 12+.

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The National Labor Relations Board, by James E. Pate. The Southern Economic Journal. July 1939. 6: 56–76.

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The Wagner Act and labor relations (address before the Massachusetts Conference of Social Work), by Edwin S. Smith. Amalgamated Journal. Dec. 8, 1938. Reprinted.

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